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TELEVISION VIOLENCE ANTITRUST EXEMPTION

HEARING

BEFORE THE

SUBCOMMITTEE ON ANTITRUST,
MONOPOLIES AND BUSINESS RIGHTS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 844

A BILL TO EXEMPT CERTAIN ACTIVITIES FROM PROVISIONS OF THE ANTITRUST LAWS

JUNE 25, 1987

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TELEVISION VIOLENCE ANTITRUST EXEMPTION—S. 844

THURSDAY, JUNE 25, 1987

U.S. SENATE,
SUBCOMMITTEE ON ANTITRUST,
MONOPOLIES, AND BUSINESS RIGHTS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee convened, pursuant to notice, at 10:12 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Paul Simon (acting chairman) presiding.

Also present: Senators Humphrey, Thurmond, and Specter.

OPENING STATEMENT OF SENATOR PAUL SIMON

Senator SIMON. The subcommittee will come to order.

This is the meeting of the Antitrust Subcommittee. The chairman of the subcommittee, Senator Metzenbaum, is unable to be here, but I will be inserting a letter of his in support of the legislation.

Let me just give you a little background of how I became interested in this problem. One night I checked into a motel, turned on the television set, and saw a gruesome scene. I saw someone being sawed in half by a chainsaw. Obviously, it was not real. But it was real enough that it bothered me that night.

And I thought, what happens to a 10-year-old, what happens to a 12-year-old. And after doing some checking, I discovered that there are all kinds of studies showing—I did not know the extent at that point, but I had read enough to know that there were studies—showing that violence on television does real harm in our society, particularly to children.

And because I am an old civil libertarian, as my friend Elmer Gertz, one of our witnesses here today, will verify, I did not want the government to get into censorship. So I called the representatives of the TV industry into my office and I said, "Here is a problem I really would like to see you, rather than anyone else, solve."

One of the responses was that there was a study inaugurated by one of the networks which showed they were not sure that there was any real harm, especially to children, in showing violence on television. And I said to them, "You remind me of the Tobacco Institute people who come in here and tell me that they have research that shows cigarettes do not do any harm."

I would point out on this table over here, my staff has assembled a series of studies that you will see in paper and book form on the question of the harm of violence.

We have the most violent television of any nation on the face of the Earth, with the possible exception of Japan.

One of the things the television industry people said to me was—I asked them to simply get together voluntarily and to set standards—they said that would be a violation of the antitrust laws.

So I have introduced this legislation in the last session, which simply makes an exemption in the antitrust laws to permit the television industry to get together to establish some kind of guidelines, voluntary guidelines. We are not talking about government-imposed sanctions of any kind.

I am pleased to say that that bill passed the Senate unanimously last year, at the end of the session, but was not passed by the House.

It is clear we need an antitrust exemption. I am pleased to say this bill is supported by the Department of Justice.

Among those who have warned about the problems that television violence does, particularly to children, are: the Surgeon General of the United States, the American Academy of Pediatrics, the American Psychological Association, the National PTA, and the National Institute of Mental Health.

We are pleased to have some distinguished witnesses here today, but before I call on the witnesses, let me yield to my colleague, the Senator from New Hampshire.

OPENING STATEMENT OF SENATOR GORDON HUMPHREY

Senator HUMPHREY. Thank you, Mr. Chairman.

I want to express my strong support for your effort, which I consider to be a useful and positive effort to help deal with the harmful effects of excessive violence on television.

One need only spend a single evening, indeed a single hour, sampling the violent fare that dominates so much of our TV programming to appreciate the need for something to be done in this area.

It is not merely that constant exposure to mindless violence on TV may feed predispositions to actual violence in certain individuals. An equally important factor is that this kind of programming has a tendency to make brutal behavior seem routine and even acceptable.

Especially among younger viewers, repetitive television violence can subtly breed indifference and apathy toward real acts of criminal violence which are all too common in our country today.

This bill will make an important beginning toward addressing the problem of television violence and the brutalizing of our society by removing potential legal impediments to cooperative efforts in the television industry.

The First Amendment obviously limits the government's role in dealing with program content along these lines, so we must look to the television industry itself to discuss and develop voluntary guidelines dealing with excessive television violence.

The Simon bill will enable the industry to begin this important task of cleaning up broadcasting without fearing that their consultations or any guidelines they may agree upon will subject them to potential liability under the antitrust laws. It is narrowly tailored and a temporary exemption which in no way undercuts the policy of the antitrust laws to protect competition.

I have one concern about the specific terms of the exemption which I am confident can be answered or resolved. I want to be certain that the bill's definition of the "television industry" components covered by the exemption is broad enough to include all significant members of the industry who might want to participate in the activities contemplated by the bill.

The Simon bill is an important first step in dealing with a terribly significant problem in our society. When this bill becomes law, the ball will then be in the court of the television industry. Somehow, we have got to turn off this torrent of rubbish pouring out of television sets into living rooms all across our country.

Surely, no other medium has a greater affect on public attitudes and values than television. Surely, the television industry management can do better. Surely, they want to do better. This bill will give them the opportunity to prove they care more about our youth, our families, and our Nation than they care about maximizing profits by wholesaling violence. Such an effort is long overdue, for surely no industry, save the drug industry, has done a greater injustice to American youth than television broadcasting.

Senator SIMON. Senator Thurmond.

OPENING STATEMENT OF SENATOR STROM THURMOND

Senator THURMOND. Thank you very much, Mr. Chairman.

Mr. Chairman, in the last Congress, I had the privilege of cosponsoring with Senator Simon and several other of my distinguished colleagues legislation similar to S. 844, the bill presently before this subcommittee.

As you know, S. 844 confers limited antitrust immunity on the collective efforts of persons in the television industry to deal with violence in television programming.

Although I am generally concerned about antitrust exemptions and believe they should be granted sparingly, it is my understanding that members of the television industry are concerned about their ability to engage in joint activity or discussions to address the issue of violence in television programming.

Under these circumstances, I believe such an antitrust exemption is warranted and serves a useful purpose.

I would also like to point out several changes from S. 2323, our earlier bill, which I believe are significant improvements. The definition of those who are exempt has been broadened so that it now includes the chief executive officer of entities which produce programming for television distribution, and the presidents of the National Association of Broadcasters and the Motion Picture Association of America, and each of the networks' affiliate organizations.

In this way, any discussions which are undertaken concerning violence in television programming can include a broad base of individuals who have responsibility for such programming.

In addition, the purpose for the exemption has been made very specific, that is, to allow the television industry to develop and disseminate voluntary guidelines concerning television violence.

Finally, the antitrust exemption is not unlimited in time, but under S. 844, terminates three years for enactment of the bill.

Mr. Chairman, I look forward to the testimony of our witnesses today and thank them for their contributions to our deliberations.

Mr. Chairman, I want to congratulate you for your leadership, too, in this important field. It is a very important field. We must protect the public, and we feel that this bill will assist in accomplishing that purpose.

Senator SIMON. Thank you very much, Senator Thurmond.

Let me also insert into the record my statement and a statement of Senator Metzenbaum and a copy of S. 844 along with an article from the Washington Post of September 11, 1986, entitled "Teenage Suicides Linked to TV Coverage of Subject"; as well as letters in support from the Department of Justice, the National PTA, the American Psychiatric Association, Professor Cass Sunstein of the University of Chicago Law School, the Lutheran Church of Missouri, the United Church of Christ, and the American Psychological Association, as well as a letter, and let me just read three paragraphs of the letter of former Chairman of the FCC, Newton Minnow.

In his letter, among other things, he says:

> My views on this bill have not changed since last year,

when he supported it.

> Day after day, our young people are influenced by murders, rapes and suicides they see on television. People of all ages have become desensitized to violence. We cannot solve this problem through government censorship of any kind. The good judgment of broadcasters and the good taste of the public are our only solution.
>
> Our present antitrust laws now discourage cooperation, and this bill is necessary to clarify the immunity such action should have from antitrust challenge. Congress should remove the potential application of antitrust laws as a deterrent to needed private efforts.
>
> The industry is regulated because of the inherent physical scarcity of the broadcast spectrum. The basic requirement is that broadcasters must operate in the public interest. This exemption, encouraging broadcasters to regulate themselves, will advance and protect the public interest.

[Aforementioned material follows:]

STATEMENT OF SENATOR PAUL SIMON

I want to thank Chairman Metzenbaum for convening this hearing. Today's hearing is only the most recent in a long line of Congressional inquiries into the harmful effects of televised violence going back to the 1950's. This is the third Senate Judiciary Committee hearing on this subject since 1984.

In June of last year, the Judiciary Committee held a hearing on S. 2323, a previous version of S. 844. That bill was amended by the Committee and eventually passed the Senate by voice vote late in the 99th Congress. With the exception of the addition of the network affiliate boards to the parties granted an antitrust exemption, the present bill is the same as the amended version of S. 2323 that was passed by the Senate.

My bill represents an opportunity for Congress to help the private sector address a serious problem that does not easily lend itself to legislative remedies--the harmful effects of televised violence, particularly on young Americans. The bill does this by allowing broadcasters, cable operators, and producers to join together to develop voluntary guidelines for the depiction of violence on television.

The bill does not contemplate the establishment of a private national censorship board or enforcement authority. It does not permit the implementation of any joint sanction or of a boycott by any of the parties granted an antitrust exemption. The bill imposes no governmental guidelines or regulations on those parties. It neither requires the members of the industry to meet, nor does it dictate what should be contained in any voluntary guidelines the industry might develop.

My bill instead simply grants an exemption from the antitrust laws to the television industry, an exemption that is carefully limited in time and scope. It permits certain parties in the industry to act jointly during a 36-month period for a very specific purpose--to develop and disseminate voluntary guidelines designed to alleviate the negative impact of televised violence.

Industry spokespersons have stated that the television industry's uncertainty about liability under the antitrust laws prevents it from undertaking the beneficial joint activity authorized by this legislation. S. 844 merely removes this federally placed obstacle and allows the members of the industry to use their considerable experience and resources in this area.

As an old civil libertarian, and as a former journalist, I am mindful of the serious First Amendment concerns that could be raised by any attempt on the part of the federal government to prescribe the content of television programming. I believe, however, that S. 844 presents no such threat to freedom of speech or artistic expression. It leaves responsibility for the regulation of televised violence where it rests today--in the individual good judgment and public-mindedness of broadcasters, cable operators and producers.

The evidence that televised violence contributes to aggressive and destructive behavior is overwhelming. I think the conclusions presented by this body of research are about as close as social scientists can come to a true consensus.

My staff has assembled a sampling of this research and the records of the numerous Congressional hearings on this subject. This material is displayed in the hearing room today. We have also prepared a synopsis of many of the conclusions of these studies. I urge my colleagues to study them; they reveal that televised violence does pose a very real problem. Let me cite just a few examples:

A 1972 report by the National Institute of Mental Health "NIMH"), conducted for the Surgeon General's Scientific Advisory Committee, concluded that a link appeared to exist between violence on television and aggressive behavior. The report also stated that additional studies were required. In 1982, NIMH published an analysis of studies of television violence conducted after its 1972 Report. In testimony before the Juvenile Justice Subcommittee on the 1982 NIMH study, a spokesman for NIMH confirmed that:

> A sizeable number of studies did support the inference that there was a causal connection between the viewing of televised violence and later aggressive behavior.

The American Psychological Association passed a resolution in February, 1986, which stated:

> The conclusion drawn on the basis of 25 years of research and the sizeable number of experimental and field investigations is that viewing televised violence may lead to increases in aggressive attitudes, values, and behavior, particularly in children.

The American Psychiatric Association and the American Medical Association both passed resolutions which declared that television violence is a risk factor that threatens the health and welfare of young Americans.

The American Academy of Pediatrics' Policy Statement on Children, Adolescents and Television found that:

> Repeated exposure to televised violence promotes a proclivity to violence and a passive response to its practice.

At last year's hearing, the Judiciary Committee heard testimony from Robert Keeshan, television's famous Captain Kangaroo. I think Mr. Keeshan's statement contained an excellent summary of the reasons we need to do better in this area than we have been:

> We should be ever vigilant in protecting the rights of broadcasters, as the FCC has been, but we should be as vigorous in promoting responsibility on the part of broadcasters in meeting the needs of children.
>
> If we fail our youth, we fail the future. In looking at commercial interests, we sow the seeds of a bitter harvest and we shall all eat from that table. No bottom line, however healthy, is worth that price.

Today the Subcommittee will hear from a representative of the Affiliate Board of the NBC affiliate stations. As I earlier noted, the only change that has been made from last year's bill is the addition of representatives of the affiliate organizations of each of the major networks to the parties given an antitrust exemption.

We invited representatives of the other affiliate boards and the National Association of Broadcasters to testify today, but they are unable to do so because of a conflict with a broadcasters' convention. They will be submitting statements for the record.

We will also be hearing from a distinguished group of witnesses, including academic and medical experts on televised violence, and several constitutional law scholars. I look forward to their testimony.

Finally, I would also like to note that I have received letters supporting S. 844 from the following individuals and organizations:

1.) the Department of Justice;

2.) the National P.T.A.;

3.) former FCC Chair Newton Minow;

4.) Professor Cass Sunstein, of the University of Chicago Law School;

5.) the American Psychiatric Association;

6.) the United Church of Christ; and

7.) the Lutheran Church-Missouri Synod.

STATEMENT OF SENATOR METZENBAUM ON S. 844 REGARDING VOLUNTARY GUIDELINES FOR VIOLENCE ON TELEVISION

THIS BILL CREATES AN ANTITRUST EXEMPTION FOR MEMBERS OF THE TELEVISION INDUSTRY TO WORK TOGETHER TO DEVELOP VOLUNTARY GUIDELINES FOR THE DEPICTION OF ACTS OF VIOLENCE ON TELEVISION. THE BILL MAKES CLEAR THAT THERE IS NO EXEMPTION FOR MANDATORY AGREEMENTS OR BOYCOTTS.

THIS BILL DOES NOT REPRESENT IN ANY WAY A WEAKENING OF THE ANTITRUST LAWS. TODAY, NO COURT WOULD FIND IT A VIOLATION OF THE ANTITRUST LAWS IF BROADCASTERS DEVELOPED VOLUNTARY GUIDELINES FOR THIS TYPE OF PROGRAMMING. NEVERTHELESS, THE NETWORKS HAVE EXPRESSED CONCERN ABOUT THIS AREA OF THE LAW AND CLAIMED THAT THE ANTITRUST LAWS PREVENT EVEN VOLUNTARY GUIDELINES. THE BILL MAKES CLEAR THAT THERE IS NO SUCH LEGAL BARRIER.

SOME HAVE EXPRESSED A CONCERN THAT THE BILL MAY VIOLATE THE FIRST AMENDMENT ON THE THEORY THAT THE CONGRESS IS ATTEMPTING TO REGULATE THE CONTENT OF PROGRAMMING. IN MY VIEW, THIS FEAR IS TOTALLY UNFOUNDED. BY PASSING THIS BILL, CONGRESS WOULD NOT IN ANY WAY COERCE OR LIMIT THE NETWORKS IN WHAT THEY CAN OR CANNOT SHOW ON TELEVISION. THE BILL SIMPLY MAKES IT CLEAR THAT IT IS LEGAL UNDER THE ANTITRUST LAWS FOR BROADCASTERS TO DEVELOP VOLUNTARY GUIDELINES FOR PROGRAMMING SHOWN TO HAVE A SERIOUS POTENTIAL FOR ADVERSELY AFFECTING OUR NATION'S CHILDREN. THUS, THE BILL IS ENTIRELY CONSISTENT WITH THE FIRST AMENDMENT.

THERE IS SUBSTANTIAL EVIDENCE TO SUGGEST THAT CONTINUOUS EXPOSURE OF CHILDREN TO VIOLENCE ON TELEVISION CAN HAVE AN ADVERSE IMPACT ON THEIR EMOTIONAL DEVELOPMENT AND BEHAVIOR. THIS BILL WILL NOT TOTALLY SOLVE THE PROBLEM. IT WILL NOT FORCE THE NETWORKS TO ACT RESPONSIBLY IN THIS AREA. AND IT IS NOT INTENDED TO DO SO. IT SIMPLY MAKES CLEAR WHAT IS THE SITUATION TODAY -- THE ANTITRUST LAWS DO NOT STAND IN THE WAY OF CONSTRUCTIVE EFFORTS BY BROADCASTERS TO DEVELOP VOLUNTARY GUIDELINES IN THIS HIGHLY IMPORTANT AREA.

II

100TH CONGRESS
1ST SESSION

S. 844

To exempt certain activities from provisions of the antitrust laws.

IN THE SENATE OF THE UNITED STATES

MARCH 25 (legislative day, MARCH 24), 1987

Mr. SIMON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To exempt certain activities from provisions of the antitrust laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) actions specified in section 2 shall be exempt from certain provisions of the antitrust laws of the United States.

(b) For purposes of this Act—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act, and the Federal Trade Commission Act;

(2) "person in the television industry" means a person who is the chief executive officer of a television network or of an entity which produces

programming for television distribution, including theatrical motion pictures, and the presidents of the National Cable Television Association, the Association of Independent Television Stations, Inc., the National Association of Broadcasters, the Motion Picture Association of America, and each of the networks' affiliate organizations, or their designees; and

(3) "telecast" means any program broadcast by a broadcast station or transmitted by a cable system.

SEC. 2. The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry pursuant to the development and dissemination of voluntary guidelines designed to alleviate the negative impact of violence in telecast material.

SEC. 3. (a) The exemption provided in section 2 shall not apply to any joint understanding, action, or agreement which results in a boycott of any other person in such industry.

(b) The exemption provided in section 2 shall terminate on the date 36 months after the date of enactment of this Act.

THE WASHINGTON POST ... THURSDAY, SEPTEMBER 11, 1986 A3

Teen-Age Suicides Linked To TV Coverage of Subject

Cases Increase After Broadcasts, Two Studies Find

By Cristine Russell
Washington Post Staff Writer

Television coverage of suicide, either in news reports or in fictional movie presentations, appears to trigger an increase in the number of teen-agers who kill themselves, according to major scientific studies published today.

Researchers at the University of California at San Diego, in a review of more than 12,500 teen-age suicides between 1973 and 1979, found that "the national rate of suicide among teen-agers rises significantly just after television news or feature stories about suicide," with the increase proportional to the amount of network coverage.

"This is the first systematic evidence for the entire country that publicized suicide stories trigger additional teen suicides," said sociologist David P. Phillips, one of the authors.

Another study, conducted by Columbia University, focused on the greater New York City area and found that suicides and suicide attempts increased in the two-week periods following three of four television fictional movies on the subject that aired nationally in the fall and winter of 1984 and 1985.

The studies, and an accompanying editorial in the New England Journal of Medicine, are likely to generate new debate about news media portrayal of teen-age suicide, but the researchers said they were not suggesting official censorship.

However, the editorial by Dr. Leon Eisenberg of Harvard Medical School suggested that "it is timely to ask whether there are measures that should be undertaken to limit media coverage of suicide," and Phillips' study also suggested that "educators, policymakers and journalists may wish to consider ways of reducing public exposure to stories, both general and specific, about suicide."

He added in an interview that journalists "might want to consider the possibility of voluntary guidelines" and that stories about suicides might mention the link with publicity so that troubled teen-agers and parents might be alert to a potential "high-risk" period for them.

Shirley Ruple, who coordinates a District-area hotline, added that she feels that, "because of the publicity, people are more aware of friends being suicidal" and more willing to call for advice. This 24-hour "crisis line" (phone 561-7000) is operated by St. Elizabeths Hospital.

Among American teen-agers between 15 and 19 years of age, suicide is the second-ranking cause of death, resulting in almost 1,700 lives lost annually. The rate tripled from 1950 to the late 1970s, remaining relatively constant since then.

Phillips, who has won several national scientific prizes for his mass media work, said yesterday that publicity of all kinds appears to affect suicide rates. He said his earlier studies, which looked at suicide at all ages rather than only among teen-agers, had suggested that front-page newspaper coverage of the subject may stimulate subsequent suicides, "particularly in the area receiving the most publicity."

He said the new study, funded in part by the Department of Health and Human Services, found that "the imitative effect for teen-agers is very much larger than the imitative effect for adults."

It looked specifically at national fluctuations in teen-age suicides in the seven days following 38 stories or pairs of stories that appeared on ABC, CBS and NBC news programs. The stories included those about specific individuals, such as the suicide of television star Freddie Prinze in 1977, as well as features such as "suicide and the young."

Phillips found that, on average, there were nearly three more suicides than expected in the seven-day period following a single suicide story, and that total suicides following the 38 stories under study rose to 1,666 from an expected 1,555. The television-associated increase among teen-agers appeared more strongly among females, he said.

The Columbia University study found that the average number of suicide attempts in the New York areas in each of the two-week periods before and after three of the movies rose significantly, from 14 to 22. Six additional cases were also associated in time with these movies, it said, but no increase was linked with a fourth movie.

Dr. Madelyn S. Gould, author of the Columbia study, said that this movie, aired by CBS, focused more on the reactions of the surviving members of the family than on the adolescent who committed suicide and was also accompanied by the most extensive educational and preventive suicide effort.

With one exception, neither study documented that the teen-agers who committed suicide actually had seen the television suicide coverage. However, Gould said that one 17-year-old New Yorker was reported to have killed himself after watching one of the broadcasts, using the same method—carbon monoxide poisoning—shown in the movie.

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

25 JUN 1987

Honorable Joseph R. Biden, Jr.
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

This letter responds to the request of Senator Paul Simon for the views of the Department of Justice on S. 844, a bill "to exempt certain activities from provisions of the antitrust laws." This bill would exempt from those laws for a period of 3 years certain joint activities among members of the television industry directed to the impact of violence in television broadcasting. S. 844 is virtually identical to S. 2323, as reported by the Committee during the 99th Congress, and upon which the Committee received the favorable views of the Department in Attorney General Meese's letter of September 25, 1986. The Department continues to support the objectives of this legislation and does not object to this bill from the point of view of antitrust policy.

Legislation to facilitate responsible, private voluntary efforts addressing television violence was revised and refined by the Committee in the 99th Congress to produce a narrow antitrust exemption that can promote its purposes effectively without inadvertently affording protection to anticompetitive activities. S. 844 provides that in order to qualify for an antitrust exemption an activity must be "pursuant to the development and dissemination of voluntary guidelines designed to alleviate the negative impact of violence in television broadcasting material" and further that the activity may not result in a boycott of any other person in the television industry. The Department's concerns that an earlier version of this legislation could have been construed in a broad and unintended manner have been addressed; it is apparent that the guidelines to which S. 844 refers are to be truly voluntary and not an anticompetitive tool.

S. 844 differs from S. 2323 as reported by the Committee last year only in its extension of the definition of "person in the television industry" to the networks' affiliate organizations. We have no objection to this provision; it is certainly the case that omission of key persons in the television industry whose participation in an effort to address the impact of television violence is necessary or desirable could adversely affect the utility of this legislation.

As stated by Attorney General Meese in his letter to the Committee last year, this legislation deals with a major issue that is itself largely unconnected to the proper functioning of an unregulated and competitive economy. Accordingly, the Department supports the goals of S. 844, and has no antitrust objection to the bill.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

John R. Bolton
Assistant Attorney General

The National PTA
700 North Rush Street
Chicago Illinois 60611-2571
(312) 787-0977

Office of Governmental Relations
1201 16th Street N.W.
Washington, D.C. 20036
(202) 822-7878

June 23, 1987

The Honorable Paul Simon
United States Senate
462 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Senator Simon:

On behalf of the National PTA and its 6.1 million parents, teachers, and child advocates, I am writing in support of S. 844, a bill to establish industry guidelines on television violence. I regret that the demands of the National PTA Convention will not permit me to present oral testimony at your June 25 hearing. There should be no doubt, however, about the National PTA's commitment to reducing the incidents of television violence during the T.V. watching hours of children. We commend you and the members of the Senate Subcommittee on Antitrust, Monopolies, and Business Rights for holding a hearing on this troubling issue, and I am honored to submit the views of the National PTA related to T.V. violence.

Since 1973, the National PTA has frequently communicated with the Congress, with Federal agencies and with the television industry about our concern pertaining to the relative lack of quality television programming for children. Unfair advertising directed at children, the advertising of products injurious to children's health, the few number of age specific and alternative quality television programs for children and families, cartoon length commercials, and the effects of television watching on children's academic performance and emotional health are all issues of paramount importance to the National PTA. These are not frivolous issues for parents who are concerned about the impact of television on their children's values, attitudes and behavior. While we recognize the responsibility of parents to monitor what their children watch, the National PTA has always maintained that parents need assistance from the television industry, which more often than not, has turned a deaf ear to parental requests for more excellent television programming. At each turn, the industry has fought against any federal regulation which would require them to meet their obligation to the children's interest, yet have also ignored the option for a voluntary self-regulation at improving television programs for children. Cries of censorship, denial of freedom of the press, severe economic burden, and unconscionable meddling "by those uninformed parents" have been leveled by the television industry at those organizations requesting a share of the decision-making related to children's programs.

Now with S. 844, we all will have another opportunity to address a portion of the quality television issue--that of T.V. violence. This issue is not new for the National PTA. Fifteen years ago, the National PTA held hearings around the country. During these hearings, parents responded overwhelmingly that increasing T.V. violence was one of their major concerns. Research has shown three possible effects of viewing television violence: (1) children may become less sensitive to the pain and suffering of others; (2) they may be more fearful of the world around them; and (3) they may be more likely to behave in an aggressive or harmful way towards others. As far back as 1972 The National Institute of Mental Health concluded, "Violence on television leads to aggressive behavior by children and teenagers."

Yet here we are in 1987 discussing not how the television industry has addressed the research and parental concerns about T.V. violence, but rather how the industry has responded by increasing T.V. violence to unprecedented levels. The 1986 report of the U.S. Attorney General's Task Force on Family Violence concludes that "evidence is becoming available that, just as witnessing a violence in the home may contribute to normal adults and children learning and acting out violent behavior, violence on television may contribute to the same results." In another report conducted by the University of Pennsylvania's Annenberg School of Communication released last fall, it was found that the early evening "family hour" of 8:00 to 9:00 p.m. contained the highest amounts of violence since the school began conducting T.V. violence research in 1967. In addition, according to a recent Nielsen Index, graduating high school students will have spent 15,000 hours in front of the T.V. set. During this time, they will have witnessed approximately 18,000 murders and countless robberies, bombings, smugglings, assaults, beatings, and torture. Is it any wonder that parents are bewildered by this menu of violence and aberration! The time for action is now.

S. 844 is a more than reasonable bill and comes far in meeting many of the previous objections cited by the industry. The bill would grant a limited antitrust exemption to a range of broadcasting entities which in turn would allow them to discuss and develop voluntary guidelines to address the negative effects of televised violence. The bill itself does not establish or require the establishment of any guidelines, but would make it easier for the industry to respond to T.V. violence concerns. Whether the industry does or not establish such guidelines now becomes a question of their interest in reducing T.V. violence. Since the bill would encourage voluntary efforts, there is no danger of censorship or other violations of freedom of expression. The National PTA believes that the exemption is constitutional, wise, does not curb business competition and is in the children's interest.

Senator Simon has provided the leadership, the vehicle, and the support for bringing all interested and concerned parties together for the purpose of curbing T.V. violence and establishing voluntary guidelines. The bill legally removes a statutory impediment--and encourages discussion that is urgently needed. As an initial measure, the National PTA supports the self-regulation and voluntary initiatives by the industry in reducing T.V. violence without federal regulations.

Thank you for the opportunity of presenting the views of the National PTA.

Sincerely,

Millie Waterman

Millie Waterman, Vice-President
for Legislative Activity

American
Psychiatric
Association

1400 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 682-6000

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June 18, 1987

The Honorable Paul Simon
Chairman
Subcommittee On The Constitution
SD-519
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is to acknowledge the support of the American Psychiatric Association, a medical specialty society representing over 33,000 psychiatrists nationwide, for your legislation (S. 844), granting an antitrust exemption to the television industry for the purpose of addressing the problem of televised violence. As you recall, the APA endorsed your similar sponsored and Senate-passed legislation (S. 2323) which failed House passage at the close of the 99th Congress.

The evidence is overwhelming that violence in television programming can have a negative and severe behavioral impact on young people and adults. As medical professionals we feel an obligation to counsel against adverse health effects when sufficient scientific evidence supports such a viewpoint.

A sizeable number of studies conducted by the Surgeon General, the National Institute of Mental Health, the U.S. Attorney General, and others have confirmed the potential of a harmful link between the viewing of televised violence and later aggressive behavior. Should you decide that additional research need be conducted, we suggest that the Antisocial and Violent Behavior Branch of the NIMH would be a logical lead office for further scientific investigation.

We join with you in the hope that S. 844 will become law in this Congress, and stand ready to assist the Committee in any way.

Sincerely,

Melvin Sabshin, MD
Melvin Sabshin, M.D.
Medical Director

HARVARD LAW SCHOOL
CAMBRIDGE MASSACHUSETTS 02138

June 19, 1987

The Honorable Paul Simon
United States Senate
Commitee on the Judiciary
Washington, D.C.
Attn.: Chris Dunn

Dear Senator Simon:

This letter will respond to your request for my views on the constitutionality of S. 2323. I regret that for personal reasons, I will be unable to attend the Committee's hearings on that subject.

I believe that in the face of a first amendment challenge, S. 2323 would and should be upheld by the Supreme Court. The issue is somewhat more difficult, however, than at first appears. It is tempting to conclude that because S. 2323 allows for "voluntary guidelines," and is not mandatory, and because the antitrust laws are not constitutionally compelled, the bill creates no serious constitutional question. In short, the (apparent) absence of "state action" might be thought to resolve the constitutional inquiry quite simply.

But there are some problems with this approach. The government grants licenses to broadcasters, and in some circumstances, I believe, the decision of the government to authorize certain practices by broadcasters might be subject to constitutional attack. See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969) ("It is the right of the viewers and listeners, not the right of broadcasters, which is paramount. . . . There is no sanctuary in the First Amendment for unlimited private censorship operating in a medium not open to all.") More important, selective exemptions from the antitrust laws are state action, and those selective exemptions might be subject to constitutional attack. Thus, for example, a statute that exempted from the antitrust laws voluntary efforts by broadcasters "to alleviate the negative impact of" criticism of the government would be state action, and it would be unconstitutional. Such a statute would discriminate on the basis of point of view. The selective exemption, based as it is on the viewpoint favored by the government, would be impermissible.

The most powerful attack on S. 2323 would be that its selective exemption is based on the content of speech, and that content-based regulations of this sort are subject to severe constitutional doubt. See Stone, Content Regulation and the First Amendment, 25 Wm. and Mary L. Rev. 189 (1983). In my view, however, this attack is ultimately unpersuasive. S. 2323 is not an effort to suppress a particular point of view; it is instead designed to combat genuine harms. In this regard the social sciece evidence relied on in the Committee's report is extremely important. (I might add that there is especially distressing evidence with respect to material that links violence with sex.) To be sure, the distinction between suppression of view and combating of harms will not always be certain in practice, see Sunstein, Pornography and the First Amendment, 1986 Duke L.J. 589, 612-617, but in this case the conclusion is relatively clear. The line drawn by S. 2323 reveals that the government is not attempting to suppress a particular political message, but that it is instead authorizing private agreements to combat violence.

This argument is buttressed by the fact that the government is not mandating or suppressing any particular kind of speech. (Whether such a step would be unconstitutional is an issue that I need not take up here.) Also relevant is the historic role of the national government in dispensing broadcasting licenses, and, on occasion, in regulating content under the FCC's "public interest" standard. See Red Lion, supra; see also Fiss, Why the State, 100 Harv. L. Rev. 781 (1987) (arguing in favor of government regulation of some forms of speech to combat distorting effects of market, particularly in area of broadcasting).

These considerations suggest to me that while the analysis is somewhat more complex than it might at first appear, the conclusion is relatively clear: S. 2323 is constitutional. If I can be of any further assistance in this matter, please do not hesitate to ask.

Sincerely,

Cass R. Sunstein
Visiting Professor

CRS/nbi

THE LUTHERAN CHURCH-MISSOURI SYNOD

Box 33216
Washington, DC 20033-0216
202 783-4664

Office of Government Information

JUN 24 RECD

June 23, 1987

Senator Paul Simon
The Committee on the Judiciary
Washington, D. C. 20510

Dear Senator Simon:

Today, it is routinely stated that we may be one of the most violent generations in human history. We, at the Office of Government Information for The Lutheran Church-Missouri Synod, are concerned that this statement may be true. When any person--young or old--can turn on his television set--at anytime of the day or night--and be "entertained" by violent murders, rapes, gang fights, and policemen mercilessly beating up suspected criminals, it is time for a change within society and with television programming.

Some individuals have no use for television at all. We do not agree. The Board of Parish Services for The Lutheran Church-Missouri Synod has been conducting seminars on "Making the Most of T. V. " for sometime. We believe that those concerned with reforming television must be level-headed, responsible citizens who can offer constructive solutions to the television and cable industries so that they do not promote violence as a way of life.

We applaud the concern of Senator Simon and The Committee on the Judiciary regarding violence on television. We are thankful that many persons now recognize as true the fact that violence on television can desensitize individuals toward actual violence. Perhaps, today, this is why many feel little pity toward the victims of real crimes while glorifying good-looking shrewd criminals.

We support those who are working to reform television so that television once again promotes a morality that upholds the value of all persons, that abhors senseless violence, and that teaches that good and evil have their consequences. Society must once again be taught--by television itself--that violence is not an acceptable form of entertainment.

Sincerely,

Elizabeth Fluegel
Office of Government Information
The Lutheran Church-Missouri Synod

UCC UNITED CHURCH OF CHRIST
OFFICE OF COMMUNICATION
105 MADISON AVENUE, NEW YORK, N.Y. 10016 (212) 683-5656 NIGHT 683-5740

DR. BEVERLY J. CHAIN, Director

June 19, 1987

Senator Paul Simon
Subcommittee on the Constitution
of the Senate Committee on the Judiciary
Senate Dirksen Office Building, Rm. 524
Washington, D.C. 20510-6275

Dear Senator Simon:

Your bill, S 844, which would enable the television industry to act jointly to develop guidelines to alleviate the negative effects of televised violence on children and adults, is a welcome piece of legislation.

It is past time that the industry recognize the serious effect which its programming has had on society, particularly children and the elderly. We believe that media models which show violence as a superior way of dealing with conflict have seriously damaged the quality of life in this country and must be addressed.

Censorship is abhorent to the members of the United Church of Christ. We stand firmly behind the First Amendment rights which the Constitution provides. However, we do believe in media self-regulation. Your bill could provide the climate for real change to occur.

While media industry executives have been reluctant to admit that the violence they portray damages the common good and threatens the freedom of all the media, considerable scientific investigation into the effects of excessive violence in media clearly shows that concrete action is needed to bring about change.

Society cannot allow the profit motive to dictate standards of decency in programming. If the industry works together to establish guidelines, then all stand to benefit. I am enclosing a statement and guidelines for dealing with excessive violence and gratuitous sex that were developed by a panel for the National Council of Churches in which I participated as a representative of the United Church of Christ. I commend this statement to Congress, to the Federal Communications Commission and to the television industry executives and producers who will develop the guidelines your legislation proposes. I would request that this material be admitted to the Congressional Record along with this letter.

Thank you for your wisdom and action in bringing this matter to the attention of Congress. We shall do all we can to assist in its passage. At the same time, we would urge additional legislation that would force the FCC to fulfill its statutory requirement to have radio and television stations determine the needs, tastes and desires of their communities of license and to program to fulfill them. Moreover, we call upon broadcasters to fulfill their statutory requirement to be responsible for everything broadcast over their stations by refusing to air network and syndicated entertainment programs until they have determined that such programs are in accord with the tastes and needs of their communities of license.

Sincerely yours,

Beverly J. Chain

Beverly J. Chain
Director

POLICY STATEMENT

Violence and Sexual Violence in Film, Television and Home Video

SPONSORED BY
THE NATIONAL COUNCIL OF
THE CHURCHES OF CHRIST IN THE U.S.A.
COMMUNICATION COMMISSION

A Policy Statement of the National Council
of the Churches of Christ in the U.S.A.
Adopted by the Governing Board
November 6th 1986

ABOUT NCC POLICY STATEMENTS

A policy statement of the National Council of the Churches of Christ in the U.S.A. expresses the Council's basic position with respect to Christian principles and their general application to today's society and world. The 260-member Governing Board, made up of delegations representing the NCC's 32 member communions, is the only body that can approve such statements.

Developed through an extended study process that generally culminates with readings at two successive Governing Board meetings, a policy statement:

- guides the work of the Council,
- is commended to member church for their consideration, and
- helps influence public opinion.

Policy statements have a wide scope and form the basis for resolutions addressing current and more specific situations facing church and society.

FORWARD

The National Council of the Churches of Christ in the U.S.A. recognizes the powerful influence of television, film, cable TV and videocassettes on the opinions, tastes and values of Americans. The Council first addressed the functions and responsibilities of the electronic media through a Policy Statement, "The Church, Television and Radio Broadcasting", June 8, 1963 (updated to include cable-TV, June 10, 1972). These media have now become the dominant forms of visual communication, and the Council reiterates its conviction that, as instruments of God's creation, they must be held in trust by those who use them. Their stewardship is of inescapable concern to all Christians, especially in those situations where their capacity to enhance the common goal is diminished by the use of gratuitous violence and sexual violence for commercial gain.

Therefore, in 1983, the NCCC's Communication Commission established a Study Commission to examine more specifically the problems of violence and sexual violence in the media. The Commission's report, entitled "Violence and Sexual Violence in Film, Television, Cable and Home Video," was received by the Governing Board of the Council in November, 1985. The Governing Board now addresses itself to the substance of this report, including conclusions about research, guiding principles for consideration by member communions and recommendations for action.

If it is to respond constructively to the use of violence and sexual violence in the media, the church must first understand the reasons why this material attracts and holds audience interest. Research indicates that all of us, and children in particular, have been conditioned by the visual media to demand action, movement and rapid resolution to conflict. But the problem goes deeper than media as a method of transmitting images. Throughout history, humankind has manifested an attraction to violence. Societies are organized around the maintenance of security. Militarism and consumerism both reflect the need for security and needs to be powerful, to be in control and to be accepted.

The Christian understanding of sin recognizes that we are created whole but become alienated from God, from one another and from ourselves. We would like to be rescued from this condition but instead we act in ways that increase our alienation from others and from ourselves. Part of this alienation comes from a self perception that we are not valued, or are over valued in comparison with others. We are insecure, proud, unable to trust or to accept gifts of God's grace. When we perceive ourselves and others as of little value, or of too much value, we are led to test our power by measuring it against others. We use our freedom to assert our will against others and against God's will for our lives.

If as a Christian community we are to address the damage from this misuse of freedom, then we must approach the issue of violence and sexual violence in the media not from a prior commitment to censorship, but with an understanding of underlying causes. And we are committed to a process of education and sensitization of the public to help individuals recognize their own complicity in the media's messages of violence.

I. VIOLENCE AND THE MEDIA

America is a violence prone society. Between 1963 and 1973, while the war in Vietnam was taking 46,212 American lives, firearms in America killed 84,644 civilians. If the United States had the same gun homicide rate as Japan, our 1966 gun death toll would have been 32 instead of 6,855; if our suicide rate by gun were the same, only 196 persons would have killed themselves with a gun instead of 10,407. Since 1933 the per capita rate of rape in the United States has increased more than 700%. There were eight handgun murders in England in 1980 and 10,012 in the United States.

Much violent behavior is learned. The mass media are powerful teachers and conditioners of individual attitudes and behavior. But Christian doctrine emphasizes the importance of seeking non-violent ways to reduce conflict between individuals, groups and nations. The use of violence turns individuals into things, objects of force or coercion, allowing one individual or group to dominate another. Such domination is counter to Christianity's teaching of human equality and the power of love and its commitment to justice and equity to resolve differences between individuals and groups.

Therefore, we deplore the increasing depiction of violence and sexual violence in the visual media. Violent behavior by media models gives negative guidance when such behavior fails to show consequences, and encourages violence as a superior choice in human relations. Such portrayals demean human interchange and harm our social environment by objectifying persons and undermining harmonious community life. Media leaders must recognize that their violent portrayals damage the common good and threaten media freedom. We support this freedom not only because it is guaranteed by the First Amendment, but also because if our society allows itself to become fettered by censorship, it may no longer be receptive to the new promptings which come from God.

The National Commission on the Causes and Prevention of violence wrote in 1969, "Violence on television encourages violent forms of behavior, and fosters moral and social values about violence in daily life which are unacceptable in a civilized society." In 1972, Dr. Jesse Steinfeld, Surgeon General, told a Senate hearing that three years of research by his office had provided him with sufficient data to establish a causal relationship between television violence and aggressive behavior. He concluded: "the broadcasters should be put on notice. The overwhelming consensus and the unanimous Scientific Advisory Committee's report indicate that television violence, indeed, does have an adverse effect on certain members of our society."

Industry leaders have resisted this charge that violence and sexual violence in broadcasting and films contribute to violence in the society. Broadcasting representatives hold that the evidence is not conclusive, that there is disagreement among researchers, and that there are many factors other than media involved in the social equation of violent anti-social behavior. Film industry leaders point out that no one is obligated to see films which are violent and that films are voluntarily rated by the motion picture industry in order to provide guidance for parents.

We believe that the weight of research over the past thirty years supports the following conclusions about the relationships between televised violence and aggression:

1. Laboratory studies show conclusively that there is a causal relationship between viewing violence on television and subsequent aggressive behavior.
2. The vast majority of field studies demonstrate a positive association between exposure to media violence and aggressiveness.
3. The positive association between viewing TV violence and aggressiveness is small but consistent. Looked at across the entire population and over an extended period of time, such a modest statistical relationship implies a substantial negative social effect.
4. The conclusion that media violence encourages antisocial and aggressive behavior is consistent with accepted theories about the nature of social learning.
5. Laboratory studies show that violent sexual material stimulates aggression toward women; also, violent material stimulates sexual violence.
6. Media *can and often do* create insecurity, vulnerability and dependency, and thereby the overall conditions in which violence is facilitated in society. Most children and adults who are heavy viewers of television express a greater sense of insecurity and apprehension about their world than do light viewers; the "mean world" syndrome.
7. Because music video often combines teen idols with erotic material and violence in a repetitive context, this new format

requires careful research and monitoring. (We believe existing research on media violence in general implies a detrimental effect of violent and sexually violent music video on children and youth.)

II. FREEDOM, CENSORSHIP AND CORPORATE RESPONSIBILITY

Both the Christian faith and the democratic philosophy of government emphasize the freedom of the individual person from compulsory conformity of belief, thought and life-style. On the other hand, both Christian and democratic traditions recognize that individual freedom is limited by, and in fact is only fulfilled through, the requirements of a just and orderly community. A society that values freedom promotes not only the independence of individuals, but also the mutual responsibility of every individual for each other and for the welfare of the community as a whole.

The Governing Board does not favor censorship, by which we mean governmental prior restraint of speech. Those who favor censorship argue that society needs conformity to some standard of decency and morality, and that the Constitution does not guarantee individuals or groups the freedom to undermine the society by advocating or attractively describing ideas or practices, which, would result in harmful changes in the society. Those who are against censorship argue that while freedom of expression may be abused by some, the dangers of limiting it are even greater. We oppose government intervention to determine the content of programming, since it opens the door to compromise of political and religious issues. On the other hand, we believe that holding broadcasters to a higher level of responsibility to the viewing public by providing specific categories of program service does not contravene the First Amendment.

We oppose compromise with the guarantees of the First Amendment. At the same time we deplore the activities of those in the media industries who hide behind these protections to make money at the expense of the public welfare. The public, acting through its governmental institutions, must provide protection for freedom of expression; however, that freedom is not a license to exploit and demean the common good.

We recognize that many professionals within the communication industry *are* concerned about the amount of exploitative sex and gratuitous violence in the media in which they work, and are doing what they can to serve positively the needs and interests of the viewers. These people deserve and require our support, our encouragement and our commendation. But these individuals are themselves only a small part of a vast and complex system which parcels out responsibility, a little bit to everyone, so that in the end, *no one* is ultimately responsible.

The fact of corporate irresponsibility must be addressed. The "business war" which constantly is being waged among broadcasters and cable operators often leads them to place the public interest second to corporate profit. Law and governmental regulation must redress the balance by insisting that *all* stations, networks and cable systems must put public interest before private profits. Communication corporations must expand their sense of responsibility beyond that of their stockholders to include the interests of the larger national community.

The electromagnetic spectrum is a limited resource. Only impartial regulation of its use can guarantee the First Amendment objective of an open marketplace of ideas. As the Supreme Court said in the landmark Red Lion case: "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount. It is the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences which is crucial here."

III. GUIDING PRINCIPLES

Christians have no simple and easy answers to these complex issues. We cannot formulate a solution which can be claimed to be *the* Christian solution. However, we can articulate some principles which may serve to guide the churches as they seek solutions to the problem.

A. The Christian Calling and the Media

Christians are called to preserve, perpetuate and share the moral values which have come from their families of faith. We are also called to bring prophetic judgment to bear on threats to the public welfare which come through the moral pollution of our media environment. In addition, we are called to be informed, to encourage research so that society will have accurate information as the basis for action, and to participate in constructive responses to the problems posed by the new media environment.

B. Freedom and Responsibility

We affirm our adherence to the principles of an open marketplace of ideas and the guarantees of the First Amendment to freedom of speech, of the press and of religion. These freedoms are the right of citizens, both individually and corporately. It is the nature of these freedoms that they be exercised within a framework of social responsibility and of concern for the public welfare.

We support industry self-regulation as a means of solving many of the problems related to violence in the media. But we believe that self-regulation can be only a partial solution, because without some governmental oversight the industry's self-interests will take precedence over the public interest.

Laws and regulation, within the constraints of the First Amendment, are essential because they can place all competitors on an equal basis.

C. *Special Responsibility of Television and Cable*

Television and cable may deliver unexpected images into homes. Because of this fact and because the broadcast spectrum and wiring systems are limited, the television and cable industries have a special responsibility for the public interest.

The airwaves are held in trust for the public by radio and television broadcasters, with licenses regulated by government. The broadcaster is therefore responsible for the content of programming. However, this right does not abridge the public's "right to know" and to be fairly represented.

Some argue that cable TV is legally similar to a newspaper and has the same First Amendment protection; however, we hold that since cable depends upon the use of city streets, it has a special public service obligation. Others argue that television should no longer be regulated because there is no scarcity of frequencies. We believe that the scarcity argument has not been proved; that broadcast stations need to be licensed; and that they have an obligation to serve the public interest. If either cable or television were allowed to have monopoly control in our communities, the public's concern about violence in these media would be ignored in the interest of making greater profits.

D. *The Needs of Children*

Children are especially threatened by the pervasiveness of violence and sexual violence in media. Both ethically and constitutionally it is the responsibility of the entire society to protect the interests of children and to provide for their education and welfare. The need to protect children extends into the home, including protection from both the unexpected images of television and the paid cable services and those of rented video cassettes and films.

We believe children should legally be barred from theatre showings of films deemed unsuitable for them. Parents should be helped to avoid the showing of that same material in their homes via television, cable and videocassette. At the same time, broadcasters should be required to make available regularly scheduled programming to enlighten and entertain children.

IV. A CALL TO ACTION

The nation's communication system is our lifeline for the preservation of our freedom and our system of democratic government. Communication, by whatever means, must be free, open, constructive and creative, and must be easily accessible to members of the public. Media leaders, the government and the public are all responsible for keeping it so.

When one or another errs or falls short of fulfilling its responsibility to guard the common goal, the others are required to call it to accountability.

There is compelling reason for the public at this time to demand a reformation of the conduct of the producers and disseminators of film, television and home video. Gratuitous violence, and especially exploitative sexual violence, must not be allowed in homes without clear and advance information to viewers as to the nature of the material. Also, viewer control over what is seen by children should be guaranteed. But since this control will never be absolute, it is imperative that our member communions assess the level of violence and sexual violence in such programming and help parents, educators and others to counter their negative effects. Churches should develop educational activities to help both adults and children analyze and deal with the content of video programming and formulate their own standards of program excellence.

The National Council of the Churches of Christ calls on the Federal Communications Commission (FCC) to fulfill its statutory and moral obligation to protect the public interest with respect to the industries it regulates. Its failure to adhere to its own rules and thus its failure fully to regulate its licensees is adverse to the public welfare. Responsible regulation is essential to reduce violence in television and cable. The FCC should fulfill its legally-required oversight of its licensees and enforce its time-honored standards of broadcast practices.

The Council further calls upon Congress and the Federal Communication Commission

(1) to study the incidence of violence in programs and its effects on both adults and children, and to regularly publish the findings of such studies;
(2) to require broadcasting, cable-TV and other electronic distribution systems to warn audiences about the character and intensity of violence in their entertainment programs;
(3) to reinstate the historic process of broadcaster ascertainment of community needs and interests to give the communities process by which they can register their concerns about community needs including the problems of violence and sexual violence in programming; and
(4) to require cable-TV companies to provide means by which parents may exercise their right to prevent their children from viewing programs deemed unsuitable.

Churches should participate in communication affairs more actively than they do now. They should take cognizance of the influence the media exert on problems whose resolutions may determine the future of humanity. They should put the public interest above considerations of institutional advantage and should ally themselves with those elements in the media that discern our mutual responsibility to serve the public good and are willing to labor for maximum diversity of programming and services that are of social significance and artistic merit.

As an alternative to the plethora of violent material directed toward children, television stations and cable services should provide a substantial amount of programming which serves the educational and information needs of children, is directed to specific age groups, and is reasonably scheduled through the week. Citizens should concern themselves with the content of entertainment programs and should participate locally in analyzing and evaluating programs and their effects. Only by careful, long-term attention to the content and perceived objectives of programs can individuals and communities make mature and discriminating judgments about them. Public groups should encourage those sponsors, producers and program outlets that strive for artistic excellence and the uplifting of ethical values in their programs, and should challenge, through the Federal Communications Commission and the courts, those federally licensed outlets, that fail to serve the public interest.

The movie industry, which is not regulated by Congress, should voluntarily expand and clarify the present rating system.

The National Council of the Churches of Christ further urges holders of stock in companies which advertise on television or Cable-TV to call the attention of the officers and directors of those companies to the importance of adopting voluntary guidelines which would avoid sponsorship of programs with excessive violence and gratuitous sexual violence. Such corporate stockholder action is equitable and could become increasingly effective if a large number of sponsoring corporations were to adopt such voluntary guidelines.

The Governing Board urges the member communions of the Council, acting in concert through the Council's Communication Commission, to produce and distribute programs of high artistic merit which illuminate the human condition without resorting to gratuitous violence and exploitative sex.

The Governing Board recommends that the leaders of the member communions launch a continuing program of information and education to make their membership aware of the seriousness of the problems society faces from the depiction of violence and sexual violence in the visual media.

Finally, the Governing Board believes that the state has a compelling interest in the impact on society of excessive violence and sexual violence in film, television and home video. Considering the public concern over this matter, we expect the media industry to take voluntary action, so as to avoid any involuntary restraint that might have an adverse effect on First Amendment rights.

American
Psychological
Association

June 24, 1987

The Honorable Paul Simon
Chair, Subcommittee on the Constitution
Committee on the Judiciary
United States Senate
519 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Senator Simon:

On behalf of the 87,000 members of the American Psychological Association, I am writing to express our support for S. 844, your legislation designed to allow an exemption from provisions of the antitrust laws to members of the telecommunications industry so that industry members might collaborate in developing standards dealing with the issue of televised violence.

We are pleased that you have chosen to pursue legislation on this important issue. Television violence does not have a negative effect on every child our adult who watches it. Nevertheless, the great weight of research evidence demonstrates that many children and youth, as well as adults, imitate violent behaviors they view on television. More importantly, research indicates that viewing high levels of violence and aggression on television can make persons less sensitive to actual incidents of violence and to the suffering of others. Unfortunately, violence is sometimes portrayed as a successful problem solving strategy.

Much of the research in this area has been conducted by members of the American Psychological Association. I am pleased that two members of APA, Dr. Aletha Huston and Dr. Eli Rubinstein, will be presenting testimony before your Subcommittee. Both are internationally recognized scholars in the area of television and social behavior, members of APA's Task Force on Television and Society, and emminently qualified to provide an overview of research on television and violence.

The American Psychological Association Council of Representatives passed a resolution (copy attached) in 1985 recommending that parents monitor and control the television viewing of their children. It requests the television industry to reduce violence on children's programs, including action/adventure programs as well as cartoons. It also asks government, industry, and private organizations to study and support ways to use television to minimize the harmful effects of televised violence.

Again, we commend you for your leadership on this important issue. Please feel free to call on Brian Wilcox (955-7673) if we might be of further assistance to you or your staff on this issue.

With best wishes,

Sincerely,

Leonard D. Goodstein

Leonard D. Goodstein, Ph.D.
Executive Officer

American
Psychological
Association

American Psychological Association

Resolution on Television and Violence

WHEREAS, the great majority of research studies have found a relationship between televised violence and behaving aggressively, and

WHEREAS, the conclusions drawn on the basis of 25 years of research and a sizable number of experimental and field investigations is that viewing televised violence may lead to increases in aggressive attitudes, values, and behavior, particularly in children, and

WHEREAS, many children's programs contain some form of violence,

BE IT RESOLVED that the American Psychological Association (1) encourages parents to monitor and to control television viewing by children; (2) requests industry representatives to take a responsible attitude in reducing direct imitatable violence in "real-life" fictional children's programming or violent incidents on cartoons and in providing more programming for children designed to mitigate possible effects of television violence, consistent with the guarantees of the First Amendment; and (3) urges industry, government and private foundations to support relevant research activities aimed at the amelioration of the effects of high levels of televised violence on children's attitudes and behaviors.

February 22, 1985

1200 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 955-7600

NEWTON N. MINOW
ONE FIRST NATIONAL PLAZA · SUITE 4800
CHICAGO, ILLINOIS 60603

June 22, 1987

Dear Paul:

I wish I could be in Washington to testify before your Committee in support of S.844.

My views on this bill have not changed since last year. Day after day our young people are influenced by murders, rapes and suicides they see on television. People of all ages have become desensitized to violence.

We cannot solve this problem through government censorship of any kind. The good judgment of broadcasters and the good taste of the public are our only solution.

Private broadcasters face formidable obstacles because of the heightened competitiveness of the industry. We must reduce that competitiveness by the substitution of cooperation.

The bill before Congress is designed to remove an obstacle to that cooperation. It imposes no federal government restrictions and says, simply, that the federal government will not stand in the way of private efforts to cooperate to investigate and reduce the amount of violence on television.

Our present antitrust laws now discourage cooperation, and this bill is necessary to clarify the immunity such action should have from antitrust challenge.

Congress should remove the potential application of antitrust laws as a deterrent to needed private efforts. The industry is regulated because of the inherent physical scarcity of the broadcast spectrum. The basic requirement is that broadcasters must operate in the "public interest." This exemption, encouraging broadcasters to regulate themselves, will advance and protect the public interest.

Sincerely,

Newton N. Minow

NNM:kjs

Senator Paul Simon
462 Dirksen Senate Office Building
Washington, D.C. 20510-1302

Senator **Simon**. Our first witness is Mr. Bruce McGorrill, Chairman of the Legislative Committee of the NBC Affiliate Board. We are pleased to have you here, Mr. McGorrill.

STATEMENT OF BRUCE McGORRILL, CHAIRMAN, LEGISLATIVE COMMITTEE, NBC AFFILIATE BOARD

Mr. **McGorrill**. Good morning, Mr. Chairman. Thank you very much for the opportunity to be with you today.

Senator **Simon**. I think our mike system is off.

Mr. **McGorrill**. Again, may I say good morning and thank you for the opportunity to be here. Good morning, Senators.

My name is Bruce McGorrill. I am Executive Vice President of the Maine Broadcasting——

Senator **Simon**. It may be just that one mike, because it seems that you were on a minute ago, but you are not on now. Why don't you switch to that other mike?

Mr. **McGorrill**. It is most embarrassing for someone in broadcasting to have a dead mike.

Thank you, Mr. Chairman.

My name is Bruce McGorrill. I am Executive Vice President of the Maine Broadcasting Company, which is the licensee of three television stations including NBC affiliates in Bangor and Portland, Maine.

Further, I am a member of the NBC Affiliate Board and serve as chairman of the board's legislative committee.

The principal responsibility of the board is to represent over 200 NBC TV affiliate stations on matters of common interest and concern with the network. This statement reflects the views of the Board as well as my own views and experiences.

The affiliate board believes the antitrust exemption legislation introduced by Senator Simon, S. 844, is unnecessary insofar as it applies to over-the-air commercial television, because there already exists an effective system of institutional safeguards and marketplace checks and balances.

In the first place, the system includes a thorough review apparatus at each of the three major commercial television networks which carefully removes objectional material from the final program product.

One year ago, Ralph Daniels, NBC's Vice President for Broadcast Standards, testified here that the networks' policy flatly prohibits the depiction of excessive or gratuitous violence. Mr. Daniels stressed that all prospective programs are reviewed at every stage of production.

The Affiliate Board has a high regard for the professionalism and performance of that department.

Secondly, when arguably objectional material escapes the network editing process, the local television marketplace has a checks and balances system where the independent judgment of local affiliates together with public response operate as the final editor.

The local television affiliate, like any broadcast licensee, is ultimately responsible for all the programs presented during the broadcast day. Affiliates have the legal right as well as the practical power to preempt any network program deemed objectionable.

My stations are not mere gatekeepers who automatically clear network programs. Although program clearances are the lifeblood of any network, my fellow affiliates and I will refuse to carry any program we judge to be inappropriate for our local service areas.

I would like to add a personal comment as to why S. 844 is unnecessary as applied to over-the-air television.

In my view, the current system operates efficiently to forestall violent programs from being presented on the network television schedule or in the dayparts controlled by local stations.

However, if Congress in its wisdom enacts S. 844, we believe the network affiliate organizations should be represented at whatever meetings would be convened.

While the National Association of Broadcasters speaks for the entire industry, I believe network affiliates would provide their own special viewpoint about objectional programs, as would representatives from the networks and independent station groups.

Apart from our network program service, there is another reason why affiliate organizations should be represented at the meetings contemplated by S. 844. Affiliates must purchase or produce their own programs in several dayparts. In my view, the average television station exercises at least the same degree of care as the networks in selecting programs for these local dayparts.

As I have said earlier, the NBC Affiliate Board believes the marketplace checks and balances system for local broadcasters is functioning effectively. But if S. 844 is enacted and meetings are convened, the network affiliate representatives would make a valuable contribution to discussions about program guidelines. We would bring the experiences of countless ascertainment meetings with local officials and countless other formal and informal meetings with local citizens and citizen groups. We would also bring to the table the experiences of clearing network programming and scheduling local programming.

S. 844 also calls for participation by other video distribution systems which may not enjoy the extensive local relationships that broadcasters have developed.

An affiliate organization could share its accumulated experiences of measuring and evaluating local viewer concerns and programming to meet those concerns. We would bring to the table a well-developed local sensitivity for dealing with programs the public might find objectionable.

Whether or not S. 844 becomes law, Congress should appreciate that local network affiliates, like all responsible broadcast licensees, take very seriously their obligation to be responsive to the needs, to the interests and to the concerns of the public.

I will be happy to answer questions from the subcommittee.

[Prepared statement follows:]

BEFORE THE
SUBCOMMITTEE ON ANTITRUST,
MONOPOLIES AND BUSINESS RIGHTS
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

STATEMENT
OF
BRUCE MCGORRILL
CHAIRMAN, LEGISLATIVE COMMITTEE
NBC-TV AFFILIATE BOARD
JUNE 25, 1987

Good Morning. My name is Bruce McGorrill. I am Executive Vice President of Maine Broadcasting Company, Inc., which is the licensee of three television stations, including NBC Affiliates in Bangor and Portland, Maine. Further, I am a member of the NBC-TV Affiliate Board, and serve as Chairman of the Board's legislative committee.

The principal responsibility of the Board is to represent over 200 NBC-TV affiliate stations on matters of common interest and concern with the network. This statement reflects the views of the Board, as well as my own views and experiences.

The Affiliate Board believes the antitrust exemption legislation introduced by Senator Simon--S.844--is unnecessary insofar as it applies to over-the-air commercial television -- because there already exists an effective system of institutional safeguards and marketplace checks and balances.

In the first place, the system includes a thorough review apparatus at each of the three major commercial television networks, which carefully removes objectionable material from the final program product. One year ago, Ralph Daniels, NBC's Vice President for Broadcast Standards, testified here that the network's policy flatly prohibits the depiction of excessive or gratuitous violence. Mr. Daniels stressed that all prospective programs are reviewed at every stage of production. The Affiliate Board has a high regard for the professionalism and performance of that department.

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The local television affiliate, like any broadcast licensee, is ultimately responsible for all the programs presented during the broadcast day. Affiliates have the legal right as well as the practical power to pre-empt any network program deemed objectionable. My stations are not mere gatekeepers who automatically clear network programs. Although program clearances are the life blood of any network, my fellow affiliates and I will refuse to carry any program we judge to be inappropriate for our local service areas.

I want to add a personal comment as to why S.844 is unnecessary as applied to over-the-air television. In my view, the current system operates efficiently to forestall violent programs from being presented on the network television schedule or in the dayparts controlled by local stations.

However, if Congress in its wisdom enacts S.844, we believe that network affiliate organizations should be represented at whatever meetings are convened. While the National Association of Broadcasters speaks for the entire industry, I believe network affiliates would provide their own special viewpoint at conferences about objectionable programs, as would representatives from the networks and independent station groups.

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As I have said earlier, the NBC Affiliate Board believes the marketplace checks and balances system for local broadcasters is functioning effectively. But if S.844 is enacted and meetings are convened, the network affiliate representatives would make a valuable contribution to discussions about program guidelines.

We would bring the experiences of countless ascertainment meetings with local officials, and countless other formal and informal meetings with local citizens and citizen groups. We would also bring to the table the experiences of clearing network programming and scheduling local programming.

S.844 also calls for participation by other video distribution systems which may not enjoy the extensive local relationships that broadcasters have. An affiliate organization could share its accumulated experiences of measuring and evaluating local viewer concerns, and programming to meet those concerns. We would bring to the table a well-developed local sensitivity for dealing with programs the public might find objectionable.

Whether or not S.844 becomes law, Congress should appreciate that local network affiliates, like all responsible broadcast licensees, take very seriously their obligation to be responsive to the needs, interests and concerns of the public. I will be happy to answer any questions from the Subcommittee.

Senator SIMON. I thank you, Mr. McGorrill.

First, I would point out that our bill does call for the network affiliate organizations to be represented.

Mr. MCGORRILL. Correct.

Senator SIMON. So I think—I hope—we are accommodating you in that respect.

Apparently there is a convention of broadcasters going on right now, and that is why some of the networks are not testifying today.

Mr. MCGORRILL. I am sitting here with all my friends, Mr. Chairman.

Senator SIMON. Yes, all right.

In your statement, you say, "There already exists an effective system of institutional safeguards and marketplace checks and balances."

Are you aware that the University of Pennsylvania study says the most violent hour on television is the hour during which children watch the most?

Mr. MCGORRILL. Specifically, I am not aware of their statement or the research behind it, no.

Senator SIMON. Well, it is very substantial research.

Mr. MCGORRILL. Is there a specific hour that they are referring to?

Senator SIMON. Yes. The hour in the evening when children watch the most is the most violent hour.

You would think, quoting your language, if this "system of institutional safeguards and marketplace checks and balances" worked so well, that would not be the case.

There was also a recent study on television, authorized by the British Parliament, and one of the points made by the committee over there was that they want to avoid at all costs the kind of violent television we have in the United States of America.

That again suggests to me that this system of institutional safeguards and marketplace checks and balances is not working.

And I really think what we do have is precisely what you have spelled out in those last four words—"marketplace checks and balances." And the reality is that violence pays off for television. It is true, you have Bill Cosby Shows, but creativity is much more expensive than having violence, in terms of pulling audience attention. So television, to a great extent, has gone the noncreative way in the United States and has moved in the area of violence.

I would add one other point, and I would be happy for any comments you might have. When representatives of your industry tell me there is no impact in 27 minutes of one violent act after another, and then they tell me and tell other people in this country to buy a 30-second commercial which is going to have all kinds of impact. It strikes me that there is a slight inconsistency. The 30 seconds does have impact—and all of us in politics recognize that it does, because we spend a lot of money on those 30-second commercials, and if that is true, then it is also true that those 27 minutes that you have on the program also have an impact. And that is really what these studies by the National Institute of Mental Health, the Surgeon General, and all the other organizations say overwhelmingly.

Any comments?

Mr. McGORRILL. My comments would be phrased really with my experiences. And for background, this is my 34th year in broadcasting, and perhaps unusually, the 34th year with the same company. And as a broadcaster, and having been in a marketplace and having been responsive to the audiences' concerns, we receive very, very minimal comment about action and violence on our program. It is not of concern to the public we serve.

Now, that may be reflecting of the programming schedule of the stations we operate, for we have concern that we do offer our marketplace a schedule with consistency that they know what to expect, and that we do not bring surprises to them.

But as a broadcaster, I am just not aware that violence is really a subject of concern to the citizens. There are programs with action, but violence—it becomes another matter.

Senator SIMON. When you say violence is not a concern of citizens, have you read even one of these studies that shows that there is a real relationship between violence in our society and what we see on television?

Mr. McGORRILL. I have not checked that table today, but I am sure those things that I have read undoubtedly are amongst the exhibits that you have there. And over the years, as various studies have come through our trade press medium, yes, I have read them, because we are concerned as to what we do in the local marketplace, which I find the other broadcasters I sit with are equally concerned over that.

There are times when some of these studies have come by, and I look at them, and I raise questions in my own mind as to the criteria under which these studies were conducted and what the definition of violence is, whether it is the violence of a comedic sense, or the violence of fury, or whether it is something that—well, I can give you an example.

There was a list a number of years ago of the ten supposedly most violent shows on television. Number two on that list was a show entitled "Sara". "Sara" was a CBS program. It was CBS's response to "Little House on the Prairie". It was a series built around a frontier schoolmarm and her struggles in that environment.

In going back through the research, it turned out that the episode used for this study, the story line was the schoolmarm having been kidnapped and taken to the hills by a disgruntled citizen, and in the course of the whole hour, she turns him around and brings him back to town a new person.

But under the definition of violence, the act of kidnapping is a violent act. Therefore, for the entire hour, this was labelled as a violent program and came up as number two on the list. And I look at that and say there is something wrong here, when we can take that kind of definition and raise a flag over a show whose total thrust was that of care and concern.

Senator SIMON. But what we suggest is that we turn it over to you, that you in the industry do it. And I would add, I hope you do not hide behind this phony shield of definition.

Other nations have very clearly defined what is violent, and I think that should not be a problem for us. And it seems to me, although you say you are concerned about how they define violence, you should be aware that there are several studies that relate teenage suicides with the depiction of teenage suicides on television.

When you have something like that, it seems to me that some voluntary restraint on the part of your industry is in order, and that you ought to be able to get together—not with the club of government—but on a voluntary basis, without violating the antitrust laws, to come up with standards that protect our society a little better.

Senator Thurmond.

Senator THURMOND. Thank you very much, Mr. Chairman.

Mr. McGorrill, you state that "The system already includes a thorough review apparatus at each of the networks that removes objectionable material from the final product." If that is so, why is there still so much violence on television? Doesn't that mean that the system that is currently in place is not very effective?

Mr. McGORRILL. In referring to the network review process, I will very definitely state that I do not feel that on network television today, there is excessive or gratuitous violence. There is action, but not excessive or gratuitous violence.

Senator THURMOND. In other words, you do not admit, then, that there is violence on television to any extent?

Mr. McGORRILL. Depending on the definition of the word "violence", excessive or gratuitous, no, on network television programming—and I am referring to your specific question—in their standards and practices in producing the shows and actually offering them to the affiliates for airing. I am very comfortable in taking the position that there are certainly action programs, but not gratuitously excessive violent programs.

Senator THURMOND. You admit some violence, but not excess; is that the answer?

Mr. McGORRILL. Some action, yes.

Senator THURMOND. Action?

Mr. McGORRILL. Action. I have difficulty saying——

Senator THURMOND. What you are doing is you are describing violence as action, aren't you?

Mr. McGORRILL. Lacking what is a broad term of violence, I just cannot accept that word as applying to action shows. Now, admittedly, this is semantics, sir, but lacking the real definition of violence and its broad context in those studies right there, almost every one of which is using a different definition of what violence is when studying it, it is difficult to simply say that what we see as action is violence.

Senator THURMOND. Sometimes it may be difficult to describe in words and put into the vocabulary just what is violence or some other word, maybe, but you know what is violence. I do not have to tell you.

Mr. McGORRILL. Yes, sir, I do.

Senator THURMOND. You have got eyes to see.

Mr. McGORRILL. Yes, sir.

Senator THURMOND. And you have got a conscience.

Mr. McGORRILL. Yes, sir.

Senator THURMOND. And don't you know there is plenty of violence on television today?

Mr. McGORRILL. Not on our stations, sir.

Senator **Thurmond**. Well, it is on my station at home. I have to get my children off of it. They just love to watch that violence, and it is not good for them. I have got four children between 11 and 16, at a very impressionable age, and I do not like it now, to be frank with you. I think you ought to take it off. I think the television ought to take it off. And I am going to do all I can to make you take it off if you do not take it off.

Now, you also state that the local television affiliates have the right to preempt any network program that they deem objectionable.

Have you ever exercised that right, and what guidelines, if any, do the affiliates use?

Mr. **McGorrill**. Each affiliate would use their own guidelines individually, sir. In our case, there was a specific case several years ago where we did elect to drop a series because we thought it had been moved to a wrong time period and had the potential for being too violent—and I will use the word "violent" in that instance. It was a short-run series, and it did not last that long, but we did exercise our right to drop it.

We have also exercised our right not to carry shows for other reasons unrelated to violence.

Senator **Thurmond**. Don't you believe despite the various systems currently in place that it would be worthwhile for the industry to meet and discuss what industry guidelines, if any, could be implemented to address the issue of violence in television programming?

Mr. **McGorrill**. I would welcome at any time the opportunity to sit down with fellow broadcasters and discuss the industry, because I enjoy and deeply respect the industry.

I am sitting here as a representative of one affiliate board of over-the-air broadcasting. I would like to make that distinction—over-the-air television. And on that basis, per our statement, is that we do not feel there is a need for over-the-air broadcasting to be concerned with the violence issue for the reasons we have just discussed and I have read.

But if there is an opportunity to sit down with fellow broadcasters, I would certainly welcome it.

Senator **Thurmond**. You know, frankly, I think there is too much greed in the world. The alcohol interests are determined if they can to get these teenagers to drink, to sell more alcohol. And that is not good for teenagers. And the tobacco interests advertise, and that is not good. And this violence on television is not good.

If you go to the bottom of it, it is simply because somebody wants to make money out of it; you might as well face it, that is what it is all about. And if you are interested in society, if you want to stop crime in this country, then we ought to take every step we can to curb that crime, and this is one thing we can do here, is to take violence off of television.

That is all, Mr. Chairman.

Senator **Simon**. Thank you, Senator Thurmond.

Senator Humphrey.

Senator **Humphrey**. Well, Mr. Chairman, I think my opening statement revealed my sentiments in this matter. Ten or fifteen years ago I recall there was a song that never made it very high on the charts, but I remember one line from the lyrics was, "Blow up your TV." I can think of no single act which a family could do that would better advance the welfare of its members than to do just that—blow up its TV. However, I know that is not going to happen, so I hope that your efforts, Mr. Chairman, will bear fruit. I hope further, with all due respect to Mr. McGorrill, that what seems to me to be an attitude of self-satisfaction, indeed smugness, is not typical within the industry. I hope that is the case, but I fear it is not.

I was really astonished to read and to hear Mr. McGorrill's statement. He feels that nothing is necessary; that there already exists an effective system of institutional safeguards and marketplace checks and balances. Well, let us focus on that.

With all due respect, Mr. McGorrill—we are neighbors, you and I; I guess you live, or at least you conduct business, in the State of Maine—first, Mr. Chairman, may I ask why we have no representatives of the networks themselves here? Did they decline to participate?

Senator SIMON. They have a convention going on; the National Association of Broadcasters has a convention in progress. Two of the networks testified a year ago and I believe, they testified without taking a stand, very adroitly avoiding a stand, but obviously not supporting the bill. One of the networks opposed the bill, using, incidentally, the definitional argument. And I would add the definitional argument is a very simple one; the definition that is accepted by just about everyone is that violence is physical harm to others or the threat of physical harm. They're pretty much in agreement there. So the definitional shield excuse is exactly that—an excuse.

Senator HUMPHREY. Yes. Which network is actively opposing this bill, Mr. Chairman?

Senator SIMON. Well, I can only say last year, CBS opposed it.

Senator HUMPHREY. Well, convention notwithstanding, it seems to me an act of irresponsibility that they could not spare one executive, that not one network could spare one executive to attend an important hearing of this kind. I think that is further testimony to the attitude of self-satisfaction and smugness, which just takes away my breath.

Mr. McGorrill, you say there is an effective system of institutional safeguards; that there is a review apparatus at each of the three major commercial television networks. I know you are not here to represent the networks, but can you tell us what is this thorough review apparatus?

Mr. MCGORRILL. The networks have a Standards and Practices Department which reviews scripts, production and final editing. In this regard, we are talking about specific episodes of specific series or miniseries, and what actually gets on the air in scenes and so forth. That is part of the mechanism of checks and balances.

The next step in the mechanism of checks and balances is the relationship between the affiliates and the network, which is an ongoing relationship from the very beginning of network television as to what we will accept as affiliates in our marketplace versus what they would offer to us. And the third step of checks and balances is in the local marketplace; that if we are as an industry, any one or more individual stations, programming in such a manner that the marketplace objects, you find strong and immediate response by broadcasters to that.

So from the viewer to the affiliate that actually airs the programs to the network that produces them and offers them, there is a constant check and balance system.

Senator HUMPHREY. That may be so in theory, but it is not working, in my opinion. Again I ask what is this review process at the level of the networks? Let us take the first level you cited. What is that review process? Do they review each episode, and if so——

Mr. MCGORRILL. Specifically, I cannot respond to that, Senator, because I run local stations, and on the Affiliate Board, we deal with their department heads, and we ask them questions, we discuss things. How they internally operate, I cannot respond to that.

Senator HUMPHREY. Well, as a member of the Affiliate Board with access to some of the important executives at the network, still you have been unable to determine what is this review system at the network level which you tout as one of the three effective safeguards; you do not know how it works?

Mr. MCGORRILL. Well, as to how many on their staff, or at what point they actually look at the script or how often they attend the set and that sort of thing, I am not capable of saying, because I have not been there.

I have been to various sessions and meetings that involve the standards and practices, and just a year ago was involved in a market session of how this was done, which was most enlightening as to the concern and the subtleties that they are able to pick up on. In fact, I came away from it very impressed with their understanding.

The basis, I believe, here is that—in fact, let me just quote from the hearings a year ago, when a representative of NBC was here, Ralph Daniels, who heads up the Standards and Practices. He says, "We will continue to apply standards, one, which assume there might be a causal relationship; and two, which meanwhile assure that the depiction of violence is handled with special care by NBC."

In other words, there is no arrogance sitting here saying all of that does not mean anything. It is entirely possible that to one degree or another, it certainly does. And with that possibility, care is taken, and checks and balances are there. And I am here as an Affiliate Board Member to say that we are comfortable with that checks and balances and feel that violence is not something on over-the-air television—over-the-air television.

And I would ask, as we were talking about definition between "violence" and "action", Mr. Chairman, that in these proceedings and in your discussions, that the word "television", which is all-encompassing, I would ask you to please understand that today that is all-encompassing, like the word "Kleenex" means all tissues. Television has gone beyond what originally was television, and there are other deliverance mechanisms other than over-the-air broadcasting, and I am only here representing over-the-air broadcasting.

Senator HUMPHREY. I think we understand that distinction. It is an important distinction.

Just in the last moment, I have been informed by staff that the Committee did not ask witnesses from the major networks to appear, so I withdraw my statement about their absence.

You cannot tell us, then, even as a member of the Affiliate Board, what are these standards which the standards and practices entity—do you call it a board, or what is it?

Mr. McGORRILL. Standards and Practices is the common phrase. Each network has its own——

Senator HUMPHREY. Well, what are the standards with respect to that?

Mr. McGORRILL. Well, I am sure each network has its own thick volume of that. In fact, in my office is, I think, a reference copy of a network—and I do not know which one it is at this point—guidelines which their people have to go through.

Senator HUMPHREY. Okay. Let us examine the second strata of what you regard as an effective system of safeguards, the affiliate relationship. For how long have you been an affiliate? How long have you been an executive of stations which are affiliates of a major network?

Mr. McGORRILL. I have been in Portland 34 years. I am Executive Vice President in my fifth year, and I was ten years as a general manager before that.

Senator HUMPHREY. And in all of those years, how many programs have you removed or declined to broadcast at the affiliate level because of violence?

Mr. McGORRILL. Because of violence, one.

Senator HUMPHREY. In how many years?

Mr. McGORRILL. All those years.

Senator HUMPHREY. Thirty-something years.

Mr. McGORRILL. Well, I was not in a position to do it all 30 years.

Senator HUMPHREY. Well, for how many years have you been in such a position?

Mr. McGORRILL. Almost 15.

Senator HUMPHREY. In 15 years, you have found only one program, or one series?

Mr. McGORRILL. It was one limited series.

Senator HUMPHREY. Of how many episodes?

Mr. McGORRILL. It was limited, because the audience did not respond to it, so it was probably seven or eight episodes. And in its repeat cycle, we did not carry it.

Senator HUMPHREY. Well, that certainly does not sound like a record of substantial discrimination in deciding what to air and what not to air. My goodness, I do not see how you can—apparently, you just love the stuff that the networks send you.

Mr. McGORRILL. Well, Senator, by the time the process has gone through, and it comes to the affiliate—we are a network affiliate, whether it be CBS or ABC or NBC—because of certain inherent faith that we have in their process and in the programs that they deliver to us, and we find that the product that comes is acceptable in our marketplace with rare, rare exceptions.

Senator HUMPHREY. Well, unfortunately, drugs are acceptable in our marketplace, too, and as long as there is demand, I suppose there will be drugs, and as long as human nature is what it is, relishing excitement, there will be a demand for violence. But it does not seem to me that that is justification for offering it on a wholesale basis. It seems to me that the television industry, whether on the air—rather, what is the phrase you use, the term——

Mr. McGORRILL. Which part are you referring to, Senator—over-the-air television?

Senator HUMPHREY [continuing]. Yes, over-the-air—whether it is over-the-air or cable or whatever it is, it seems to me you ought to recognize you have a very, very special and unique responsibility to respond to more than just market pressures.

But let us get back to this affiliate business again. What would happen if you declined, let us say, 50 percent of the programming offered you by your network?

Mr. McGORRILL. If we declined 50 percent of the programming, I can assure you we would not be the only station declining that programming. And whatever network it was would be in serious trouble. This is a totally symbiotic relationship. A network is only a distribution system; it is a wholesaler. We are the retailer. If we elect not to air the program, they have a serious problem. That is part of the checks and balances, that they must produce a product that they have reasonable assurance that the affiliated stations will wish to offer in their marketplace. If it gets to 50 percent—it never would get to 50 percent—if it got to 25 percent, they would be in serious trouble.

Senator HUMPHREY. My point is this. Network affiliation is a highly valuable asset for which stations compete—am I not correct?

Mr. McGORRILL. Yes, it very definitely is——

Senator HUMPHREY. Not every station can be a network affiliate.

Mr. McGORRILL. That is correct.

Senator HUMPHREY. It is a highly sought-after association and a highly profitable association, is it not?

Mr. McGORRILL. In many instances; not every instance. One of our stations is not in that situation. I wish it were.

Senator HUMPHREY. Well, my question is, to what extent would that asset, that affiliation which is such a valuable asset, be in jeopardy if an affiliate kicked up a ruckus about what was being sent you in the way of programming?

Mr. McGORRILL. If an affiliate kicked up a ruckus over one program or two programs, and it was one or two affiliates, they would not be in trouble. If it were 20 or 25 affiliates, it would be the network in trouble, not the affiliates, sir. They would have a problem in their distribution system.

Senator HUMPHREY. Typically, affiliates are comprised of how many stations?

Mr. McGORRILL. Approximately 200 for each network.

Senator HUMPHREY. No, but what I mean is you are an affiliate which operates three stations?

Mr. McGORRILL. Yes.

Senator HUMPHREY. Is that typical? Is that about average—two or three stations—or is it one or two or——

Mr. McGORRILL. I have no figures to say what is average. We operated two for 30 years, and now we are operating three.

Senator HUMPHREY. The point is that these are fairly small entities in proportion to the whole, and I wonder just how much leverage they have—you have, for example—with the networks.

Mr. McGORRILL. I understand where you are going with that question, Senator, and——

Senator HUMPHREY. Are you a captive?

Mr. McGORRILL. Absolutely not.

Senator HUMPHREY. What are your alternatives?

Mr. McGORRILL. We are in business together, the networks and the affiliates. And I can tell you, in my years as an executive, dealing with NBC—which has been our relationship up until we recently purchased a station which is a CBS station—but in the relationship with NBC, when we had a concern, the door is open to hear that concern at the network. They want to know, because they do not want to hear that concern from a fourth and a fifth and a sixth station, because then it does become a problem to them.

They are very understanding of what their affiliate faces in the marketplace, and they do not force things down our throat. They do not, without regard, feed us programming that we can have a problem with. And I find that—and I would like you to know—that it is a very sincere operation, back and forth between networks and affiliates.

Senator HUMPHREY. If that is so—and it may well be—that the network executives and the affiliate executives are quite sincere, then the only conclusion I can come to is that your values and those of the network executives must be substantially different than the values of most Americans, because something is wrong here, somewhere. Somewhere between what you say and what we see coming out of our television sets, there is a vast discrepancy.

In any event, let me conclude this way. You are here representing not only yourself and your stations, but the affiliate board, is that correct?

Mr. McGORRILL. That is correct, sir.

Senator HUMPHREY. With which network?

Mr. McGORRILL. NBC.

Senator HUMPHREY. And in that capacity, you oppose this bill; is that correct?

Mr. McGORRILL. In that capacity, our testimony says we do not believe the bill is necessary for over-the-air broadcasting. But if, in the wisdom of Congress, they pass it, we feel the affiliates have valuable input at the table and appreciate their inclusion in this version of the bill.

Senator HUMPHREY. Thank you, Mr. Chairman.

Senator SIMON. Just one comment growing out of Senator Humphrey's comments. In the area of standards, some of my friends—including Terry Mahoney of NBC—suggested that I take a look at your process. And so I flew out to Los Angeles, and visited all three networks. Because I did not know Los Angeles that well, I told my staff to hire a car and get a driver to get me around the city.

It so happened that the driver was a woman who was Swedish by background. I explained to her why I was out there. And she said, "You know, in Sweden, while we permit frontal nudity, we do not permit anything like the kind of violence that you have on your television." She said, "I was just shocked when I came over to the United States and saw what is on television here."

A few weeks after I was in Los Angeles, Olaf Palme, the Prime Minister of Sweden, was killed on the streets of Sweden. What really struck me was that down at about the tenth paragraph of the story, it said, this is the first time in Swedish police records that any Swedish citizen had been gunned down on the streets.

Now, I am not saying there is a complete relationship, but if I were in the television industry, I would at least think that maybe we ought to be taking a look at what we are doing to our society.

Second, when you quote a television executive in testimony from last year saying there might be a relationship between television and violence, let me tell you the Surgeon General of the United States says there is a relationship; the National Institute of Mental Health says there is a relationship; the American Academy of Pediatrics says there is a relationship. Study after study after study confirms it. When, on national television, there is a movie presented which includes a young man committing suicide, and after the presentation of that movie, 31 young men around this Nation commit suicide in the same way, that is not simply a coincidence. There is a relationship.

And finally, when you talk about marketplace checks and balances, what takes over is what my friend Senator Thurmond talked about—greed. Profit is what motivates marketplace checks and balances. What we are really asking the TV industry is to have a little higher standard than marketplace checks and balances. We do not mean to unload on you, but we appreciate your being here.

Thank you very much.

Mr. McGorrill. Thank you, Mr. Chairman.

Senator Thurmond. Thank you, sir.

Senator Simon. The next witnesses will be a panel, consisting of Dr. Eli Rubinstein of the University of North Carolina-Chapel Hill; Dr. Aletha Huston, Co-Director of the Center for Research on the Influence of Television on Children, representing the American Psychological Association; Professor Robert Kubey, of Rutgers University, and Dr. Lillian M. Beard, of the American Academy of Pediatrics.

We will enter your full statements in the record, and we would ask you to summarize in 5 minutes, if you will, your testimony, so we will then have the opportunity for questions.

Dr. Rubinstein, we will start with you.

STATEMENT OF A PANEL INCLUDING: DR. ELI RUBINSTEIN, UNIVERSITY OF NORTH CAROLINA-CHAPEL HILL; DR. ALETHA HUSTON, CO-DIRECTOR, CENTER FOR RESEARCH ON THE INFLUENCE OF TELEVISION ON CHILDREN, AMERICAN PSYCHOLOGICAL ASSOCIATION; PROFESSOR ROBERT KUBEY, RUTGERS UNIVERSITY; AND DR. LILLIAN M. BEARD, AMERICAN ACADEMY OF PEDIATRICS

Dr. Rubinstein. Thank you, Mr. chairman and members of the committee.

Thank you for inviting me to testify at this hearing. My name is Eli A. Rubinstein. I am adjunct research professor in mass communications in the school of journalism at the University of North Carolina. I am also on the faculty of the Bush Institute for Child and Family Policy at the same university.

From 1969 to 1972, I served as Vice Chairman of the Surgeon General's Research Program on Television and Social Behavior. During those 3 years, I was the senior Federal official in charge of that effort.

I also served from 1980 to 1982 as one of the seven senior advisers to the National Institute of Mental Health on the preparation and publication of the 10-year update to the original Surgeon General's Report of 1972.

I continue to remain involved in the research area concerned with the effects of television on the young viewer.

I have a brief statement. I would also like to submit for the record a chapter from a book I have recently published. In this chapter, a colleague of mine and I summarize the research on the effects of television on children.

Senator **Simon**. We will enter that in the record.

Dr. **Rubinstein**. Thank you.

We pay special attention to the research on the effects of televised violence on children.

In my brief remarks, I would like to address three related questions—first, what do we as scientists know about the effects of televised violence on children; second, what if anything should be done about this problem, and third, who should be responsible for making any necessary changes relating to this issue.

As you know, there has been public concern about the effects of televised violence on children ever since the early days of commercial television. However, extensive research did not begin until almost 20 years ago. In the past 15 years, hundreds of scientific articles have been written.

While there is no unanimity of opinion, the great majority of scientists in the field believe that there is a causal relationship between televised violence and later aggressive behavior in children.

To be fair to those scientists who disagree with this consensus, two points need to be made. First, there have been some major studies which did not find this relationship. One in particular, published in 1982, was an extensive field study done by scientists at the National Broadcasting Company. They concluded that their study, and I quote, "did not find evidence that television violence was causally implicated in the development of aggressive behavior patterns among children and adolescents over the time periods studied."

The second point to make is that even when the relationship is found, it is generally a weak effect. That means that not a large proportion of the audience is influenced, and even for those affected, it is not always a major impact.

With those qualifications, let me repeat that most scientists working in this area, myself included, believe that televised violence does contribute to later aggressive behavior in children.

As for the weak effect, there are over 50 million viewers below the age of 16. If only one-tenth of one percent of those young viewers are adversely influenced by televised violence, we are talking about 50,000 children. That is a potentially serious problem that continues to deserve national attention.

One of the many important sources of evidence for this conclusion is to be found in an extensive longitudinal study done by Dr. Leonard Eron and his colleagues at the University of Illinois. Dr. Eron has been following one sample of subjects for almost 25 years. In a series of re-examinations over the years, including one of the original studies for the original Surgeon General's Report, this team of scientists has consistently found a significant relationship between heavy TV viewing and later aggressive behavior in the viewers.

Indeed, these researchers have found similar results in a series of cross-cultural studies done in Australia, Finland, Israel, the Netherlands, and Poland.

I note, incidentally, that Dr. Rowell Huesmann, one of Dr. Eron's senior colleagues, did testify before this Committee last year, so you have already been made aware of this extensive body of evidence.

In the 10-year update of the Surgeon General's Report published in 1982, the conclusion was reaffirmed that televised violence was causally related to later aggressive behavior by those children who were heavy viewers. Furthermore, it is now believed that there is a vicious cycle in which these children who have been made more aggressive by their viewing habits tend to watch even more violence to justify their own behavior.

Let me add another word about the 10-year update. Those of us who were closely involved in the development and publication of that report were not primarily concerned with the issue of televised violence. We were convinced, knowing that study after study had reaffirmed the original causal connection described in the Surgeon General's Report, that televised violence was a real and continuing——

Senator SIMON. I am sorry to interrupt, but could you summarize the balance. We are going to have to be very strict on our 5-minute time, because we took more time with the first witness than we had intended.

Dr. RUBINSTEIN. Okay. Let me suggest, then, that if we accept the scientific evidence, what should we do about it; and having watched congressional committees, I believe we must avoid two pitfalls. One extreme is to do nothing; the other extreme is to impose some government regulation. In one sense, we have been doing nothing in accepting by default the industry's assurance that this is really not a problem. To attempt the other extreme of government control would be rightly doomed to failure because of 1st amendment constraints.

It seems to me that the attention of the bill which is here under consideration steers an appropriate course between these two undesirable alternatives. It allows the industry to pool its very considerable creative and administrative resources to address this problem of televised violence. By allowing for collaboration on a voluntary basis, the bill also sets a very positive tone for constructive change rather than merely imposing arbitrary constraints on the creative process.

The industry leaders have the capacity to solve this problem if they work at it together. And I would endorse the bill.

I would hope that if the bill is passed, the television industry would be required to make annual reports, summarizing their progress. This would keep public attention on this matter.

And finally, I would like to just quote a section from a paragraph in a chapter that I have submitted for the record.

Senator SIMON. I hate to say it, but we are going to enter that quote in the record here, Dr. Rubinstein.

Dr. RUBINSTEIN. All right. Let me just say that I think this bill allows a combination of attention by the public, concern by the government, and hopefully, action on the part of the industry.

Thank you very much.

Senator SIMON. We thank you very much for your testimony.

[Prepared statement follows:]

STATEMENT BY ELI A. RUBINSTEIN, UNIVERSITY OF NORTH CAROLINA,
BEFORE THE SENATE COMMITTEE ON THE JUDICIARY,
ON SENATE BILL (S.844) ON TELEVISION VIOLENCE.
UNITED STATES SENATE, JUNE 25, 1987

Mr. Chairman and members of the Committee:

Thank you for inviting me to testify at this hearing. My name is Eli A. Rubinstein. I am Adjunct Research Professor in Mass Communications in the School of Journalism at the University of North Carolina. I am also on the faculty of the Bush Institute for Child and Family Policy at the same university. From 1969 to 1972, I served as Vice Chairman of the Surgeon General's research program on television and social behavior. During those three years I was the senior federal official in charge of that effort. I also served from 1980 to 1982 as one on the seven senior advisors to the National Institute of Mental Health on the preparation and publication of the ten year update to the original Surgeon General's report of 1972. I continue to remain involved in the research area concerned with the effects of television on the young viewer.

I have a brief statement. I would also like to submit for the record a chapter from a book I have recently published. In this chapter, a colleague of mine and I summarize the research on the effects of television on children. We pay special attention to the research on the effects of televised violence on children.

In my brief remarks, I would like to address three related questions. First, what do we as scientists, know about the effects of televised violence on children? Second, what, if anything, should be done about this problem? Third, who should be responsible for making any necessary changes relating to this issue?

As you know, there has been public concern about the effects of televised violence on children ever since the early days of commercial television. However, extensive research did not begin until almost twenty years ago. In the past fifteen years hundreds of scientific articles have been written. While there is no unanimity of opinion, the great majority of scientists in the field believe that there is a causal relationship between televised violence and later aggressive behavior in children.

To be fair to those scientists who disagree with this consensus, two points need to be made. First, there have been some major studies which did not find this relationship. One in particular, published in 1982, was an extensive field study done by scientists at the National Broadcasting Company. They concluded that their study "did not find evidence that television violence was causally implicated in the development of aggressive behavior patterns among children and adolescents over the time periods studied." (1, p.156)

The second point to make is that, even when the relationship is found, it is generally a weak effect. That means that not a large proportion of the audience is influenced. And, even for those affected, it is not always a major impact.

With those qualifications, let me repeat that most scientists working in this area, myself included, believe that televised violence does contribute to later aggressive behavior in children. As for the weak effect, there are over fifty million viewers below the age of sixteen. If only one-tenth of one percent of those young viewers are adversely influenced by televised violence, we are talking about fifty thousand children. That is a potentially serious problem that continues to deserve national attention.

One of the many important sources of evidence for this conclusion is to be found in an extensive longitudinal study done by Dr. Leonard Eron and his colleagues at the University of Illinois. Dr. Eron has been following one sample of subjects for almost twenty-five years. In a series of reexaminations over the years, including one of the major studies for the original Surgeon General's report, this team of scientists has consistently found a significant relationship between heavy TV viewing and later aggressive behavior in the viewers. Indeed, these researchers have found similar results in a series of cross-cultural studies done in Australia, Finland, Israel, the Netherlands and Poland. I note, incidentally, that Dr. Rowell Huesmann, one of Dr. Eron's senior colleagues, did testify before this committee last year. So, you have already been made aware of this extensive body of evidence.

In the ten-year update to the Surgeon General's report, published in 1982, the conclusion was reaffirmed that televised violence was causally related to later aggressive behavior by those children who were heavy viewers. Furthermore, it is now believed that there is a vicious cycle in which these children who have been made more aggressive by their viewing habits, tend to watch even more violence to justify their own behavior.

Let me add another word about the ten-year update. Those of us who were closely involved in the development and publication of that report were not primarily concerned with the issue of televised violence. We were convinced, knowing that study after study had reaffirmed the original causal connection described in the Surgeon General's report, that televised violence was a real and continuing problem. We were interested in all the other ways that television had been found to be an influence on the social growth of the child.

In fact, the major conclusion of the ten year update, from my perspective, is the fact that: "Research findings have long since destroyed the illusion that television is merely innocuous entertainment. While the learning it provides is mainly incidental rather than direct and formal, it is a significant part of the total acculturation process." (2, p.87)

Thus, in addition to the direct support from new research in the 1970's, that televised violence is a problem, much other research put that conclusion into a larger context. Television influences the viewer. It influences the viewer in many ways, some good and some bad. And the younger the viewer and the more time spent in front of the television set, the greater the potential influence, both positive and negative.

If we accept the voluminous scientific evidence that televised violence does adversely affect the young viewer, the question then becomes what to do about it? Having watched Congressional committees address this issue over the past two decades, I believe we must avoid the pitfalls of two extremes. One extreme is to do nothing and leave the problem to solve itself. The other extreme is to impose some governmental regulation.

In one sense, we have been doing nothing, in accepting by default, the industry's assurance that this really is not a problem.

To attempt the other extreme of government control, would rightly be doomed to failure because of First Amendment constraints.

It seems to me that the intention of the Bill which is here under consideration steers an appropriate course between these two undesirable alternatives. It allows the industry to pool its very considerable creative and administrative resources to address this problem of televised violence.. By allowing for collaboration on a voluntary basis, the bill also sets a very positive tone for constructive change rather than merely imposing arbitrary constraints on the creative process. The industry leaders have the capacity to solve this problem if they worked at it together.

I, therefore, believe that Senator Simon's television violence bill (S. 844) is a very useful and appropriate step towards dealing with this issue. I would endorse it as an excellent alternative for answering my second question: what to do about the problem.

I would hope that, if the bill is passed, the television industry would be required to make annual reports summarizing their progress. This would keep public attention on this matter.

Let me interject here, that I have no special expertise on the legal aspects of the bill under consideration. However, in my capacity as a faculty member of the Bush Institute for Child and Family Policy, I have for some time been concerned with efforts to develop social policy on issues relating to television and the young viewer. The chapter from my book that I have submitted for the record goes into some detail in this regard. I would like to quote a concluding paragraph from that chapter, which is relevant to my third question: who should be responsible for making the necessary changes.

"A combination of developments must emerge before real change will take place. First, a larger proportion of the public must become actively concerned about the effects of television on children. Second, the government must find an appropriate posture, short of regulation, that indicates its intention to safeguard the welfare of children in this area. Third, the industry must abandon its corporate defensiveness and more constructively use its resources to more adequately meet the needs of its young viewers." (3, p.114)

I would hope that your efforts towards a favorable consideration of the Bill will have produced that combination of developments. Some constructive action in this regard is long overdue. Thank you.

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The Media, Social Science, and Social Policy for Children

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FIVE

TELEVISION AND CHILDREN: A PUBLIC POLICY DILEMMA

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> TV Violence Held Unharmful to Youth. (Gould, 1972)
> Report Links TV Violence to Aggression. (Russell, 1982)

Those two front page headlines, the first in *The New York Times* and the latter in *The Washington Post*, mark the difference over time in print media response to a complex scientific inquiry. That difference is partly due to the accumulation of hundreds of studies published in the intervening years and, concurrently, a greater familiarity by the news media with this scientific issue. As might be expected, the television industry's corporate reaction was somewhat different. That contrast provides an intriguing example of how scientific information is interpreted by the media, especially when such findings directly effect one branch of the communications industry.

In order to understand this sequence in which television is itself both the object of scrutiny and then a judge of the validity of that scientific inquiry, it is important first to review the findings and then see how they were reacted to, both by the television industry and in the media generally. And, finally, it is necessary to see how social policy has been influenced by this special circumstance of the industry reaction to an outside examination of itself.

THE 1972 SURGEON GENERAL'S REPORT

A number of publications have reviewed the major research program on the effects of television on children initiated in 1969 and concluded in 1972, which resulted in five volumes of technical studies plus an overall evaluation and separate report to the Surgeon General by a prestigious scientific advisory committee. In addition to extended articles (Bogart, 1972; Rubinstein, 1976), the entire effort was analyzed in depth by Cater and Strickland (1975) to evaluate its impact on public policy.

As most individuals who have looked at the history of American television know, public concern about violence on television has been active, at varying levels of intensity, for more than 30 years. Until 1969, however, no government attention had gone beyond Congressional inquiries at which various expert opinions were expressed. Network officials had been called in to testify and invariably stated that televised violence was not excessive and that there was no scientific evidence that it was harmful. In any case, these officials contended, violence was being reduced. No government action was forthcoming until the next round of hearings two to five years later, which repeated the scenario of expert opinion and industry rebuttal.

In March 1969, Senator John Pastore, then chairman of the Senate Subcommittee on Communications, in a letter to Secretary Robert Finch of the Department of Health, Education, and Welfare (DHEW), asked that the Surgeon General be directed to appoint a committee of distinguished scientists and "conduct a study" to "establish scientifically" whether televised violence is harmful to children. Senator Pastore had long been concerned about this question and wanted a definitive scientific answer. It was that request and the expenditure of $1 million which resulted, three years later, in producing 43 new studies.

For the first time, major new research was brought to bear on the issue. Furthermore, the work in the Surgeon General's program had been accomplished under the direction of the National Institute of Mental Health (NIMH), which had a reputation for sponsoring and supporting much of the innovative research being done by the most competent social scientists in the country. The technical reports included a wide range of studies from laboratory experiments to field studies involving hundreds of children. Sociological studies of how the industry produces children's programs and a survey of how the public and television critics perceive televised violence were also included. An extensive survey was done of how violence on television was seen from the broadcast industry's point of view. And, finally, a periodic content analysis of the level of televised violence was established (Gerbner, 1972) which has continued ever since to monitor annual changes in levels of violence on prime-time commercial television.

The total body of scientific findings produced in this research program provided important new evidence by which to determine the answer to Senator Pastore's question. The advisory committee came to a unanimous conclusion that the "convergence . . . of evidence constitutes some preliminary indication of a causal relationship" between televised violence and later aggressive behavior in children (Surgeon General's Scientific Advisory Committee, 1972, p. 10, hereafter referred to as the Surgeon General's Committee).

At this point, the media became involved in their role as information disseminators. Soon after the Scientific Advisory Committee had written its report to the Surgeon General, but before the technical reports had been physically put into publishable form, plans were developed for a press conference by the Surgeon General on January 19, 1972. He was to give a brief summary of the findings and the committee's conclusion that there was preliminary evidence of a causal relationship between televised violence and later aggressive behavior in children. In preparation for this public release the "findings and conclusions" summary chapter was printed as a separate document to be distributed the day of the press conference as a background to the Surgeon General's remarks. The full report was then to be made available to the public.

At least one writer, Jack Gould, television editor of *The New York Times*, received not one, but four leaked copies of that summary chapter on January 10 (Cater & Strickland, 1975). *The New York Times* front-page story appeared the following day. In addition to this premature disclosure of the story, the headline was a misinterpretation of the findings. Gould never quoted the key Committee conclusion that preliminary evidence of a causal relationship had been found, but instead noted in his lead sentence that the "Surgeon General has found that violence in television programming does not have an adverse effect on the majority of the nation's youth, but may influence small groups of youngsters predisposed by many factors to aggressive behavior" (Gould, 1972).

That *New York Times* story, and especially the unequivocal headline, produced a flurry of public and political reaction. The effect of that story on further press coverage by other newspapers reveals how influential the headline was in adding confusion to the interpretation of the findings. An analysis by Tankard and Showalter (1977) documents that the misinterpretation was never fully corrected. More importantly, the government study itself had been under an earlier cloud because it had been revealed in an earlier magazine article (*Science*, May 22, 1970) that some members of the Scientific Advisory Committee had had direct or indirect affiliation with the television industry. Thus, *The New York Times* headline, in the absence of the published report, fueled Congressional and public suspicion that there had been a "whitewash." Some of the researchers whose work had lead to the Committee conclusion of the causal relationship were especially irate. Since these scientists also had not seen the published committee Report, they were incensed at the presumed misreading of their findings. Some of the scientists lost no time in complaining both to Congress and to the press. The controversy stimulated additional articles in newspapers and national news weeklies.

Despite an after-the-fact news briefing held by the Surgeon General on January 17, 1972, in which he clarified the findings and denied the whitewash, there was sufficient public concern and confusion that Senator Pastore decided to hold public hearings to reassess the report and, more importantly, to address the question of policy recommendations to Congress and the networks—a step that the Surgeon General and his Advisory Committee had specifically been enjoined by the Secretary of DHEW from taking in their original scientific inquiry because DHEW had no regulatory responsibility in this area.

On March 21–23, 1972, hearings by the Senate Subcommittee on Communications heard testimony from Jesse Steinfeld, the Surgeon General, Eli A. Rubinstein, the vice chairman of the Advisory Committee and coordinator of the research program, and 7 of the 12 members of the Committee. Various researchers who had contributed to the Report, the chairman and members of the Federal Communications Commission, the presidents of all three networks and the president of the National Association of Broadcasters also testified (U.S. Congress, 1972).

Under questioning from Senator Pastore, the Surgeon General unequivocally asserted that the evidence was sufficient to warrant action to reduce violence on television. The Surgeon General stressed that the Committee had come to a unanimous conclusion in its Report. No members of the Committee at the hearing disagreed with the assertion that action was warranted and all agreed there was too much violence on television. Agreement came specifically from Joseph Klapper, who was the director of social research at CBS and from Thomas Coffin, in a comparable position at NBC. Furthermore, all three network presidents agreed that the time for action had come and they pledged to redouble past efforts to reduce televised violence in the future (U.S. Congress, 1972).

At the conclusion of the hearings Senator Pastore declared that a "scientific and cultural breakthrough" had been achieved. Certainly those who had participated in this research effort believed that significant changes would follow from the conclusions of the Surgeon General's program. Those expectations were not to be fulfilled, at least in the decade that followed.

AFTER THE SURGEON GENERAL'S PROGRAM

In a scholarly overview of the trends in violent content in television, Comstock (1982) calls the period immediately following the Surgeon General's Report (1972–1974) one of "controversy and apathy." As he notes, debate began to develop on the value and accuracy of measuring televised violence. The networks began to question the validity of the violence index developed by Gerbner and his colleagues. At the same time, the NIMH commissioned the Social Science Research Council (S.S.R.C.) to evaluate measures of violence and to recommend methods of measurement. The Council, after two years of deliberations, essentially endorsed the Gerbner approach, with some modifications (S.S.R.C., 1975).

More importantly, no clear plan of policy action was developed from the Surgeon General's efforts. Various policy recommendations were voiced at the hearings held by Senator Pastore in March, 1972, but none included plans for implementation. Senator Pastore himself called for an annual violence index, to be published by the Secretary of the DHEW. No formal steps were initiated to develop such a formal survey. Instead Gerbner and his colleagues have accomplished annual monitoring with funds solicited from various federal and private sources (Signorielli, Gross, & Morgan, 1982).

Ironically, one of the most specific sets of policy recommendations appeared in an article in the *Reader's Digest* in 1973 by the Surgeon General. (The article was actually ghost written by a senior editor of the magazine, but attributed to the Surgeon General, with his agreement, because magazine policy at that time precluded staff-written articles.) In that article the Surgeon General reaffirmed his conviction that immediate action was needed and recommended that: (a) television stations air public service messages that "Too much TV can be hazardous to your child's mental health"; (b) the FCC require stations to publicize the results of scientific evaluations to be made of the merits and demerits of programs children watch; (c) the FCC formally adopt a "family television time" for broadcasting between 7:30 and 9 p.m.; and that (d) parents "demand" better television for their children by joining citizens' action groups and petitioning the FCC to require quality programming for television (Steinfeld, 1973). Of these four recommendations, only the "family television time" was adopted and that was on a voluntary rather than required basis.

The "apathy" that Comstock refers to is perhaps better called a brief dormant period, because by 1975 a number of circumstances rekindled the concern about televised violence and its effects. Probably the most influential event was a fortuitous involvement of the American Medical Association (AMA) with this issue of televised violence.

In the December 8, 1975, edition of the *Journal of the American Medical Association* (JAMA), a cover story highlighted the scientific evidence on the effect of televised violence. The author called for a "major, organized cry of protest from the medical profession in relation to what, in political terms, I consider a national scandal" (Rothenberg, 1975). The author, a psychiatrist and pediatrician, with no prior formal involvement in television research, wrote the article out of a personal interest in the topic and sent it to JAMA, even though he was not a member of the AMA. The journal editor decided to feature the article as a cover story, which immediately brought it to the direct attention of 250,000 readers in the medical profession.

Within the year, the prestigious *New England Journal of Medicine* had articles and editorials calling for an end to televised violence. In a special analysis, Feingold and Johnson (1977) surveyed the responses from more than 15,000 readers of the *Journal* denouncing the violence on television. They also noted that both advertisers and network executives had been contacted and had shown some qualified concern about the problem. Stating that the burden of responsibility ws on the industry to prove that televised violence was not harmful, Feingold and Johnson called for continued public pressure through boycott of products advertised on violent shows and through written complaints to the networks.

At the same time, in June, 1976, the AMA House of Delegates officially adopted a policy identifying televised violence as an "environmental hazard" threatening the health and welfare of young Americans. The president of the AMA wrote to a number of major advertisers requesting that they not sponsor programs with excessive violence. The national PTA also pressed for reduction of televised violence. The networks responded by acknowledging the public outcry and promised to reduce the violence level.

In 1977, for the first time since the Surgeon General's report in 1972, the annual content analysis by Gerbner showed a decrease from levels of the previous year (Signorielli et al., 1982).

Furthermore, the Congress and the FCC were getting into the act again. In 1974, the FCC had issued a report and policy statement on children's television (U.S. FCC, 1974) calling for increased educational and informational television, but no formal rules were adopted, making the statement of little threat to the industry. Also in late 1974, the concept of "family viewing" was developed for early evening viewing time. In 1975, the plan was voluntarily adopted as part of the industry self-regulatory code. (Ironically, various writers' and directors' guilds complained that the family viewing hour was an infringement of First Amendment rights and the Federal District Court in Los Angeles declared the rule unconstitutional. It had been, nevertheless, continued as an informal procedure.)

Congress, through the House Committee on Interstate and Foreign Commerce, held public hearings in 1976 and 1977 on televised violence. By a narrow vote of 8 to 7, the Committee indicated its concern about such violence, but concluded that parental supervision and industry self-regulation were the most effective controls. The minority of 7 were more firmly convinced by the scientific evidence of televised violence's harmful effects and argued that the FCC had effective ways to influence programming change and should use those methods (Comstock, 1982).

Thus, no tangible government intervention followed the considerable visibility of the question produced by the normally influential medical profession.

By 1978, the AMA decided to move to other public issues and discontinued its campaign against televised violence. The PTA continued its efforts, but at a much reduced level. In 1978, despite the earlier protestations of the networks that change was taking place, the Gerbner index showed a rise in violence (Signorielli et al., 1982).

BEYOND VIOLENCE: NEW RESEARCH DIRECTIONS

While little progress was being made on policy issues, research on television and children was flourishing. At the time of the Surgeon General's report in 1972, about 500 publications on television and youth had been published. By 1975, that number had doubled, and by 1980 almost 3000 such publications had been produced (Pearl, Bouthilet, & Lazar, 1982).

More importantly, violent content on television was no longer the central focus of attention. In an overview of television and social behavior (Withey & Abeles, 1980) the clear extension of research interest beyond violence is documented in chapters ranging from psychological effects of black portrayals on television to an examination of organizational and economic influences on the structure and operation of American television. Only one chapter (Bogart, 1980) directly discusses the violence question in an historical account of research and policy developments in the five years after the 1972 Surgeon General's Report.

In another and even more comprehensive review of research developments through the mid-1970s (Comstock, Chaffee, Katzman, McCombs and Roberts, 1978) it becomes evident that scientists had turned their attention to so many questions beyond violence that the title of this review, "Television and Human Behavior" was an apt description of the range of topics under examination.

A number of major new topics were beginning to emerge that had only been initial forays in the Surgeon General's program: the effects of advertising on children; the converse of the violence question, i.e. how does "prosocial" programming affect positive behavior?; and developmental changes in children's responses to television. One topic already being researched, but not addressed at all in the Surgeon General's program, since it was not related to the issue of violence, was that of television news and television's impact on the political process. By 1977, a considerable research literature had accumulated on this topic. Also, the impact of television on special populations, such as women, the blacks, the poor and the elderly was beginning to be examined.

In the broadest context, the approach of all this new research examines "television as a teacher." That rubric, in fact, was the title of a research monograph published by NIMH (1981). A group of researchers contributed chapters in which television's role as a teacher was documented from various perspectives. This informal instruction by television goes well beyond the more obvious approaches such as those demonstrated by "Sesame Street" and the "Electric Company." By the later part of the 1970s, research had clearly shown that television influences social learning in multiple ways. Even cognitive development has been shown to be affected, not just as a function of time spent watching television, but as a result of the influence of learning the structural codes of television on the development of information processing (Salomon, 1979).

Siegel (NIMH, 1981) raises a critical question that derives from television's role as a teacher: How competent and conscientious are the television writers and producers in providing this informal education? Siegel makes the intriguing observation that, unlike doctors or teachers, the television professionals get no direct feedback on how they affect children. This absence of direct knowledge about response only reinforces the television writers and producers' sense of security that they have no responsibility for the children's welfare. What is needed, Siegel argues, is the same professional linkage between practice and research that exists in fields like health, education, and agriculture.

A TEN-YEAR REEVALUATION

By this time, in the late 1970s, despite an ever enlarging body of research, a public policy stalemate was in effect. Public reaction had waxed and waned during that decade. Even though some public groups, especially those with a religious affiliation, were expressing concern about both sex and violence on television, no major government interest seemed apparent.

In October, 1979, the FCC did issue an extensive report on television programming for children. In that report, a long delayed follow-up to its 1974 report, the FCC examined the amount, quality, and scheduling of children's programs. The Commission noted that its 1974 policy statement had put broadcasters on notice that they had a responsibility to treat children as a special audience with special needs.

The FCC found that characteristics of "the advertiser-supported broadcasting system, result in the failure of the market to provide a socially optimal level and type of television programming for children" (U.S. FCC, 1979, pp. 42–43). The staff report recommended a rule requiring 5 hours per week of educational or instructional programming for preschoolers and 2½ hours per week for school-age children. Unfortunately, by the time the FCC got around to considering a formal implementation, the political climate had cooled toward all manner of government regulation, and no action was taken by the FCC.

In the meanwhile, the research findings continued to accumulate. In early 1979, a group of researchers in the field suggested to the Surgeon General, Dr. Julius Richmond, that a comprehensive review be published on this body of literature as an update to the original Surgeon General's Report. Initially it was intended that this 10-year update be issued as a Surgeon General's Report, in much the same way as the Surgeon General had been issuing periodic reports on smoking and health. However, by the time the comprehensive review had been completed in 1982, Dr. Richmond was no longer Surgeon General, and it was decided to issue the Report as a responsibility of the National Institute of Mental Health, with the aid of a group of seven senior advisers.

The Report was issued in two volumes. The first was a summary report. The second was comprised of a series of 24 review articles by experts commissioned to prepare integrative analyses of specific topics selected by the advisory group to represent areas of importance. Again, as in the original 1972 Report, where the emphasis was on entertainment programming, research on political socialization and on news programs were omitted. The coverage, however, was specifically intended to reflect a research agenda which had long since removed the violence question from the focus of scientific attention, even though it still held center stage in the public arena.

If any single statement epitomizes what was found it might be the following: "Television can no longer be considered as a casual part of daily life, as an electronic toy. Research findings have long since destroyed the illusion that television is merely innocuous entertainment. While the learning it provides is mainly incidental, rather than direct and formal, it is a significant part of the total acculturation process" (Pearl et al., 1982, vol. 1, p. 87).

What are the major research findings that document the conclusion that television is now a significant influence on child development? The ten-year update of the 1972 Report to the Surgeon General divides the research output of the past decade into five major categories: cognitive and affective aspects of television; violence and aggression; social beliefs and social behavior; television and social relations; and television and health. In addition, the update looks at the role of television in American society.

Violence and Aggression

The most widely publicized conclusion of the 1982 NIMH Report was on televised violence. The press and the network news all had stories in early May, 1982, which highlighted the finding that violence on television leads to aggressive behavior by children. That conclusion was not universally accepted. As might be expected, the television industry was especially critical. Nor is it likely that the criticism will soon disappear.

Granted that the data are complex and that no single study unequivocally documents the connection between televised violence and later aggressive behavior, the convergence of evidence from many studies is overwhelming and was so interpreted in the NIMH Report.

In the simplest terms, only three possibilities exist in this equation: (a) television has no significant relationship to aggressive behavior: (b) television reduces aggressive behavior; or (c) television increases aggressive behavior. Almost all the studies reviewed in the past decade support the third possibility. Both in the original Report to the Surgeon General and in the 10-year update, the so-called "catharsis" theory (that TV reduces aggressiveness) was repudiated.

What remains as a troubling question comes from the handful of studies which conclude that television has no significant relationship to aggressive behavior. Indeed, the most recent and most comprehensive study supporting the "no relationship" finding is included in the NIMH Report (Milavsky, Kessler, Stipp, & Rubens, 1982). Based on a panel survey of more than 3,000 children over a 3-year period, these researchers concluded that no evidence emerged which "causally implicated" televised violence in the development of aggressive behavior. That conclusion and the original data probably will be reexamined by other researchers. Controversial interpretations are likely.

What is self-evident in this situation, as with other complicated scientific questions, is that research is almost never unequivocal in its interpretation. Nevertheless, this major research finding of the NIMH Report regarding the linkage of televised violence to later aggressive behavior clearly represents the psition of the great majority of scientists working in this field. The burden of proof to contradict this conclusion is yet to be met.

Cognitive and Affective Aspects of Television

Another area of research that has received much scientific attention over the past decade involves how the cognitive and emotional development in children modifies or influences their response to television. It has long been recognized that children do not see or understand what is viewed on the television screen in the same way an adult does. Much recent research has been devoted to analyzing what changes in attention and comprehension occur as the age of the viewer increases from that of preschooler through adolescence.

The research reviewed in the NIMH Report clearly documents that first- and second-grade children are not yet able to follow a complex plot line through the entire sequence of discrete scenes. An important corollary of this finding is that young children are often unable to relate a series of complex actions to their final consequence. Thus, when industry spokespersons claim that their programs are fundamentally prosocial because good ultimately triumphs over bad, they ignore this important finding. The young child is much less likely to make the interpretive connection and, therefore, less likely to learn the moral lesson.

The entire process of growing up with television means that not only do children perceive differently at different stages of development, those stages of development are themselves influenced by extensive television viewing. For example, in what ways do the structural forms of television influence the way children process information? And in what ways do aspects of form influence how content is perceived? Research on these and other questions is still in its early stages, but already reveals important findings. Children's attention is heightened by lively music, sound effects, special visual effects, high levels of physical activity or action, and rapid changes in scene.

What is important in these and other findings about the effects of structural form is that it adds a new dimension to the understanding of television effects. It may be, as some research suggests, that aggression can be stimulated by high levels of action even without high violent content. Or it could be that children, already associating high action with high violence, respond to the former even when the latter is not present (Pearl et al., 1982).

Another area of research in which content itself is not the focus of concern involves the concept of arousal. Findings suggest that some television viewing can heighten a state of general arousal. This increased level of excitement may then be channeled into various behaviors, including aggression, depending on the existing circumstances. Thus, exciting television programming, regardless of specific content, may induce certain behaviors. While we have no evidence of any long-term effects of high arousal, it is not inappropriate to ask if the excitatory influence of television viewing has any effect on the child's response to other stimuli in the child's environment that are less stimulating. Are the child's expectations of excitement, enhanced by television, unmet in the classroom? And, if so, that are the consequences?

Research on the influence of television on emotional development is still in its early stages. It is clear that television viewing can produce emotional response. Does a continued arousal of emotions ultimately lead to decreased emotional response? Data are scarce, but it is an important question. Indeed, one of the most intriguing questions—for which no answer is presently available—involves the long-term effects of vicarious emotional experiences through television. The combined visual and auditory messages on television allow the young child to become involved in events not only long before any similar real-life experiences, but in a range and diversity far beyond the ordinary realities. The effects of such vicarious experiences may or may not be cumulative and may or may not be significant. They are, however, different in quality and quantity and from those experienced by children growing up in pretelevision times.

The effects of television viewing on educational achievement and aspiration have also received some attention. Findings are more suggestive than definitive. It does seem likely that heavy viewing relates inversely to school achievement. At the same time, heavy viewers with low IQ's and/or from family settings where intellectual stimulation is low may actually be learning more from television relevant to school subjects than they would without that input from television. High-IQ students who are heavy viewers may show less school aspirations. However, all these relationships are complex and subject to other concurrent influences (Pearl et al., 1982).

All these findings on cognitive and emotional development as they relate to television viewing suggest a need for increased emphasis on teaching children critical television viewing skills. Research is only in its early stages in trying to educate both parents and children on how best to cope with this "anonymous teacher" in the home. Learning how television works may provide the best safeguard against its potentially negative effects and the best reinforcer for its potentially positive influence.

Social Beliefs and Social Behavior

Among the potentially damaging influences of television is the way it may shape viewers' perceptions of the real world. Much concern has been raised about the racial and sexual stereotypes shown on television. Indeed, stereotypes of all kinds are common, including those of age and occupational role. To the extent that television shows minority groups in demeaning roles, or women in excessively passive and subordinate positions, or older people as senile and burdensome, or an overrepresentation of doctors, lawyers, policemen, or other professionals, to that extent, the young viewer—especially the heavy viewer—is seeing a distorted image of the real world.

Even before the research began to show that stereotyping can influence the viewers' perceptions, efforts by coalitions among these various groups began to pressure for change. Ethnic groups, women's groups, and senior citizen's groups have all had some modest success in reducing the level of stereotyping.

A more subtle and perhaps pervasive research finding centers on how watching television affects the viewers' perception of the "real" world. A major area of research suggests that heavy viewers see the world as a mean and scary place, precisely because so many more mean and scary incidents take place on television than in the everyday experiences of most of us. Indeed, if many children identify with victims rather than aggressors on television, then the frightened feelings admitted by child viewers should be of more general concern than the violence-aggression linkage.

On area of research to which the television industry has paid some attention concerns the concept of prosocial behavior. Over the past decade, considerable research has investigated the obverse of the televised violence–aggression linkage. It is of significance to the aggression effect that programming which provides high levels of prosocial behavior can induce helping behavior in the viewer. These studies further document the strength of the general finding that observational learning takes place from television viewing.

Both laboratory studies as well as field studies have consistently shown that such behavior as cooperation, friendliness, delay of gratification, and generosity can be enhanced by appropriate television programming. Furthermore, films and television can be used to help viewers cope with fears, whether those fears involve strange animals or fear of surgical procedures (Pearl et al., 1982).

Finally, it comes as no surprise that academic research is now documenting what advertisers have long known; television advertising socializes children toward active consumer roles.

Television and Social Relations

What do we know about the family as portrayed on television? More importantly, what, if anything, does television viewing do to family interactions?

These questions are partially answered by recent research. As might be suspected, family life on television is marked by much stereotypic portrayal of families. Whether it is a bumbling and inept father, or precocious children, or the marked contrast between working-class and middle-class families, family life on television is either predominantly funny and simplistic or excessively tragic. More subtle themes reveal a strong effort toward upward mobility by children in the working-class families. None of this is inherently bad, of course, but it adds further to the conclusion that children watching television are being subjected to a variety of cultural stereotypes.

What is of greater importance may well be how families respond to and deal with this attention-getting member of the household. One body of research indicates that parents do not usually watch television with their children. Furthermore, while parents have often expressed concern about the levels of violence and sex on television, there is relatively little parental control or supervision of their children's viewing.

The relative lack of parental attention or interaction is doubly unfortunate, because recent research reveals that parental intervention, through discussion, can mitigate against negative effects of viewing and also enhance positive effects. In this connection, it is encouraging that television programming now often includes public service announcements urging parents to watch with their children and to talk about what they see on television.

Television and Health

One area of recent attention that offers some interesting possibilities for a more constructive use of television viewing involves health-related television research.

Content analysis of television programming suggests that many subtle health messages are conveyed which are only beginning to be recognized as influential on the viewer. Relatively little smoking occurs on today's programs. In contrast, alcoholic use, both casual and heavy, is shown twice as often as drinking coffee or tea, and many more times than the consumption of soft drinks (Pearl et al., 1982). What dochildren learn from this beverage-drinking pattern, which is the inverse of real-life practice? What messages are conveyed when very few television characters buckle up their seat belts and when drivers are often exceeding the speed limits or otherwise demonstrating reckless driving?

In a more direct fashion, television has been used to mount health campaigns. To date, thse campaigns have had mixed success. However, as research continues and better understanding develops as to the designing of health messages, future campaigns should prove more effective.

One recent research activity attempting to extend the uses of television in health matters relates to the problem of mental illness. The mentally ill, not incidentally, are often shown as dangerous and violent and rarely depicted in a sympathetic light. What about the uses of television by the mentally ill? Surveys of television viewing in mental institutions show such viewing to be an important dayroom activity. Based on that finding, research has been initiated to see if television viewing by disturbed children under full-time care in a psychiatric setting can serve as a modest therapeutic intervention. A one-year pilot field study suggests that a diet of prosocial programming not only can hold the children's attention, but tends to reduce aggressive behavior (Pearl et al., 1982).

These findings on institutionalized children carry some promise that other institutionalized individuals, such as those in homes for the aged, hospitals, and penal institutions, might also benefit from a more planned and tailored diet of television programming. Research in that direction may be one more constructive approach to a more productive use of this leisure time activity.

The Role of Television in American Society

What is still missing in all the research on television and behavior over the past decade is a broad theoretical framework within which to conceptualize this body of knowledge. Obviously, many of these investigations can be subsumed under social learning theory. And yet, the fact that television markedly influences not just social learning, but our social institutions—including the family, law, politics, and religion—suggests that it plays a unique role in American society and should be so viewed conceptually.

Lacking such a theoretical framework, scientists will still continue busily to examine the various phenomena which demarcate television's role in how we behave as individuals within which we function. Eventually, we may be able to develop the broader constructs within which these various areas of investigation can become a more integrated set of findings.

What is also needed is a clearer understanding of the structural pressures and constraints within the television industry that have produced the programming that now exists. An examination of how the system works reveals a number of self-evident factors. Ratings and audience response strongly influence the quality and character of programs. Competition among the three networks, and now cable systems, puts great pressure on the production system. Furthermore, because all of this is part of a large bureaucratic enterprise, no individual or small group of individuals has full control over the development of programs. Neither the directors, producers, writers, nor television executives independently determine what appears on the television screen. Thus, when outside groups call for change, it becomes hard for the system to respond. And, finally, it is of no small significance that some of the groups calling for change may not be reflecting the tastes of the so-called "mass audience" of television.

MEDIA COVERAGE AND RESPONSE TO THE TEN-YEAR UPDATE

By a curious coincidence, the 10-year update, like the original Surgeon General's Report, was initially reported as a front-page exclusive story, because a reporter got the story before an official government release was prepared.

For the 10-year update, *The Washington Post* story set the tone for subsequent coverage. Although the Report itself deliberately relegated the violence issue to a minor role in the research picture, it was clearly the major media focus. However, unlike the earlier *New York Times* story in 1972, this article was an accurate account of the report. The headline "Report Links TV Violence to Aggression" reflected the story correctly (Russell, 1982).

The 10-year update coverage has been reviewed in an extensive scholarly paper (Hobbs, 1983). It is clear from that review that there was little subsequent misinterpretation of the Report, although few of the later newspaper pieces went beyond the violence issue.

What was different this time was the reaction by the television industry itself. The immediate response was to claim that the Report was "inaccurate" and that most of the members of the scientific advisory group were individuals who had "publicly identified positions on the role of television in society." What is ironic about the latter comment is that it was a reaction identical in kind but opposite in implication from the public complaint 10 years earlier about the presumed prejudice of the members of the Surgeon General's Scientific Advisory Committee, five of whom had been directly or indirectly affiliated with the industry.

It is of further significance that, in 1972, the industry not only did not call the Surgeon General's Report inaccurate, but rather the initial response was "conspicuous silence" (Cater & Strickland, 1975, p. 113). At the Pastore hearings 2 months later, all three network presidents acknowledged that the findings warranted serious consideration. The president of the ABC, in the most forthright response, stated that the Report would influence changes in ABC's fall scheduling, as it related to programming for children. He further declared that ABC would spend $1 million on relevant research in the next four years.

Many months after the 10-year update, in 1983, ABC issued a 32-page brochure (Wurtzel & Lometti, 1983) which attempted to refute the conclusions of the ten-year update on televised violence. Since that ABC statement makes no reference to the larger body of research reviewed in the update, nothing in the argument undermines the major NIMH conclusion that television teaches. In attempting to contradict the research findings on violence—and by calling the evidence "correlational"—the ABC statement sounded remarkably like that of the tobacco industry in its position on the scientific evidence about smoking and health. Obviously, the disagreement on the evidence by the networks will continue.

Perhaps the potential for differences in media analysis of the scientific findings is most dramatically illustrated by looking at two contrasting magazine articles. In the January, 1983, issue of the *Reader's Digest*, Eugene Methvin (the same journalist who wrote the Surgeon General's article in 1973) wrote an article "TV Violence: The Shocking New Evidence." In the January–February issue of the *Washington Journalism Review*, Eric Mink, a radio and television critic of the *St. Louis Post-Dispatch*, wrote an article, "Bum Rap for the Box." Two more dissimilar interpretations of the same research findings would be hard to find.

Methvin (1983) begins by citing individual cases of serious antisocial copycat behavior and then points out that TV violence has not decreased in the past 14 years. He cites various studies and conclusions that TV violence is harmful. He concludes that parents must be more firm in controlling and guiding their children's viewing. Simultaneously, he urges more careful attention to which companies carry advertising during violent programs, so that viewers can complain to those advertisers. The article is dedicated to alerting the public to a problem and suggesting how best to cope with it.

Mink (1983), on the other hand, begins by making an analogy to a courtroom case in which the defendants are "the mediocrity mongers of commercial television" and the plaintiffs are government agencies, social scientists, and others "spouting realpolitik and psycho-babble in defense of society." The charge is that television is turning us into a "nation of rampaging maniacs." Mink's verdict is "Not guilty, by reason of common sense." Obviously, Mink's "charge" is a considerable distortion of the research findings.

The rest of Mink's article is a quick and casual review of research findings and a dismissal of the strength of converging evidence, by noting that even a large number of "flawed studies" cannot be presumed to be significant. He then describes the only decisive study, which he simultaneously points out is impossible to do. Namely select two large samples of infants, matched for hereditary factors. Then subject both groups to identical environments and comparable life experiences, except that one group watches TV violence and the other does not. Having thus relegated significant research to an unachievable standard of perfection, Mink concludes, "Twenty years of flimflam is enough. Let's move on."

It is of some significance that public opinion polls for years have shown that the public believes there is a linkage between TV violence and crime. A Gallup poll in May, 1982, found that 66% of the public endorse a ban on televised violence until 10 p.m. That opinion had not changed much in 5 years of previous polling.

THE PUBLIC POLICY DILEMMA

While the scientific facts will probably continue to be debated, and the public will have no unchallenged authority to trust, the policy question still remains. Are the data on television and children conclusive enough to warrant some form of action and, if so, what action is most appropriate? In this connection, it is important to go beyond the violence issue. It is also important to distinguish television from earlier forms of entertainment media.

Two circumstances nullify the old argument that television is no more harmful (or influential) than older sources, such as books, radio, and the movies. First, none of these earlier modes came even close to occupying the sheer amount of time and attention that television does. Second, we now have sufficient hard evidence that television influences the viewer, with both positive as well as negative effects.

What is perhaps even more indefensible in the television industry's position is that, unlike the tobacco industry, the research findings are actually more a guide toward improvement than a threat toward extinction. It is in this context that the media's emphasis on violence masks the real issue: television is a powerful teacher whose potential benefits are not being realizd. The blame for this tunnel vision is a shared one. The television industry is too concerned with defending itself to see beyond the violence question. Parents are too willing to use television as a baby sitter to give it the careful attention it deserves. And the government has recently been too engrossed in its efforts toward deregulation to recognize its responsibilities toward children in this matter.

Having thus emphasized the need for change, it would be gratifying to be able to describe precisely what needs to be done. Unfortunately, no clear plan emerges, either from the body of research or from an examination of previous policy efforts. Indeed, perhaps the most compelling lesson to be learned from past efforts is that there is no single objective to be pursued. There is, however, a clear design for failure. Any time-limited effort, no matter how well developed or how successful, will not have any enduring results.

Examples of this problem are numerous. One recent instance is illuminating. In a thorough analysis of the development and production of an excellent program series for children, Johnston and Ettema (1982) point out that the series was produced as an experimental effort to educate children against stereotypic attitudes about sex roles. As an experiment it was successful. Unfortunately, its impact has been short-lived, because it was not continued. The authors stress the need for a continuing process in order to build on past experience and develop an organizational memory which fosters continued progress toward an ultimate goal.

Perhaps an equally important lesson to be learned from this experiment, and from the longer experience in the production of "Sesame Street," is the invaluable benefit that accrues from a continuing and close collaboration between research and production personnel. The complementary advantages of marrying these two sets of expertise has been a major source of the success of such programs.

Complex Imponderables

At the same time that there are lessons to be learned from past efforts to improve television for children, there are problems for which satisfactory solutions are not readily apparent. One is related to the distinction between "television children watch" and "children's television." The latter is rather easily identifiable, but not automatically so. Saturday morning cartoons are clearly children's television, despite their questionable value. But only about 15% of children's viewing time is devoted to Saturday morning programming. The rest of the time is spent well into evening prime time. Indeed, 4% of the audience watching television during prime time is less than 6 years old, and 9% is between 6 and 11 years of age (Comstock et al., 1978). Thus, 13% of the audience is 11 years or younger. How does the industry respond to this portion of the audience? More importantly, what obligation does the industry have in those instances, such as late afternoon, when the audience is largely children? Local affiliate stations, who control that time, will often put violent programs, in reruns, in that time slot. The determination as to when children's interests should be protected in this audience age mix is not easily reached.

An even more difficult matter is inherent in the bureaucratic structure of the television industry. As noted earlier, efforts toward change, even with the best of intentions, are not easily achieved. Like other large institutions, television has become a ponderous structure where control is a shared responsibility. Even if a network president called for dramatic change, the system itself would tend to resist. This is not to excuse the status quo, but to explain its seeming permanence.

In this regard, despite seeming discontent on the part of the audience, the ratings serve as the most tangible guide toward audience taste. It is not altogether an excuse on the part of industry executives to state that the audience gets what the audience wants.

And, finally, what neither the researchers nor the industry have successfully achieved is a clear guide to the effective use of research findings. It is all very well for those of us in the academic community to talk about the implications of the research findings. What is missing is the clear translation from the theoretical not just to the applied, but to the practical.

The more subtle and complex translation of research findings into program use is much less easily attainable. In each instance, whether it is teaching cognitive skills such as on "Sesame Street" or prosocial lessons such as on "Fat Albert," what is required is the continuing active collaboration of child development specialists and production personnel. When less sophisticated and informed procedures are used periodically under external pressure to reduce the levels of violence, the results have sometimes been counterproductive. The response has been to show "sanitized violence" in which the gory consequences are not shown. This sanitized violence may only stimulate imitation, because the violent act carries with it no moral deterrent.

It is precisely because there is an urgent need to know how best to translate all this knowledge that the present unwillingness of the television industry to address this need energetically is so short-sighted and self-defeating.

Multiple Approaches

There are, of course, a variety of approaches toward inducing change in how television serves its young viewers. One recurring theme has been in reference to the health of these viewers. The original Surgeon General's Report was concerned about the mental health of children. The involvement of the AMA was similarly justified. The 10-year update discussed health promoting possibilities. And, more recently, an edited volume (Sprafkin, Swift, & Hess, 1982) was devoted to exploring prevention and control measures around the concept of enhancing the preventive-health impact of television.

Another approach has centered on the activities of various public action groups. Four of the most well-known of these groups deserve mention. Each has a somewhat different philosophy in its mode of operation.

Action for Children's Television (ACT) is one of the oldest and largest such citizen's groups. It began in 1968, with a focus on televised violence. Later, it concerned itself with television advertising to children. ACT has been most effective in the political arena, mobilizing its members nationwide to write to Congress as well as the networks in defense of better programming and advertising practices for children. It has petitioned the FCC to make the Commission a more effective regulatory agency working for the welfare of children. In addition, ACT holds annual symposia, publishes research reports, and distributes a periodic newsletter with information on relevant developments. It also gives national awards for good children's programs.

Media Action Research Center (MARC), a church-affiliated group, has been active since 1972 in developing a program of community workshops to make parents more aware of how television affects the viewer. A handbook to use as a guide in "Television Awareness Training" is now in its second edition (Logan & Moody, 1979). It is used widely both in the United States and internationally. This kind of awareness training is one part of a larger effort to teach critical viewing skills, now being provided in a number of centers in the United States.

The National Council for Children and Television (NCCT) is a coalition of concerned citizens and representatives from the television industry. The Council holds periodic meetings and publishes a quarterly, "Television and Children," which provides a forum for information, research, and opinion on children and television. Through collaboration with industry personnel, NCCT holds periodic workshops to promote a better collaboration among researchers, industry personnel, civic leaders, and corporate executives.

The National Coalition on Television Violence (NCTV) concentrates its efforts on reducing televised violence. It monitors programs to determine levels of violence and to identify which advertisers appear on high violence programs. NCTV has encouraged its members to write these advertisers to put pressure on them to discontinue sponsoring such programs. In early 1983, the coalition moved close to, but has not actually recommended, a formal boycott. NCTV publishes a periodic newsletter in which it publicizes its latest ratings as well as recent relevant research findings.

All of these efforts, plus others, serve to keep the issue of television and children in the public awareness. While this awareness is necessary, it is not sufficient to induce extensive change. Indeed, as all these organizations have been saying with increasing insistence in recent years, commercial television is not being responsive to the needs of the young viewer.

Perhaps the most difficult stumbling block to change is the inability or unwillingness of the television industry to address its responsibilities to the young viewer, except as an integral part of its corporate profit and loss decision-making process. If a program for children gets the ratings, it stays. If the audience is less than the competition for that time slot, it goes. Until the industry is willing to modify that approach, or until the government offers some tax incentives or other inducements to compensate for lost revenue, commercial television will probably not change in its programming for the young viewer.

CONCLUDING REMARKS

If the above account seems to suggest there is no clear path to change, it is both correct and not unique among issues of social policy for children. We have attempted to show that the research findings, especially those of recent years, do document a need for change.

What is unusual in this instance is that when television is itself an object of scrutiny, its role as a source of information conflicts with an understandable corporate self-defensiveness. Thus, what industry executives say or do about research on television directly affects television's coverage on this topic. Television's investigative attention, which makes everyone from politicians to major corporations sensitive to such scrutiny, does not extend with equal vigor to self-examination. Indeed, this is one area in which television does not compete with the print media in coverage of a story.

A combination of developments must emerge before real change will take place. First, a larger proportion of the public must become actively concerned about the effects of television on children. Second, the government must find an appropriate posture, short of regulation, that indicates its intention to safeguard the welfare of children in this area. Third, the industry must abandon its corporate defensiveness and more constructively use its resources to more adequately meet the needs of its young viewers.

The path to any of these objectives, let alone all three, is not clear. And yet, there is some hope. As we have shown, some efforts have been made in all three directions. Unfortunately, as of this writing, the government's movement toward deregulation minimizes the likelihood of meaningful government involvement. That government stance also allows the industry to continue the status quo with no fear of any strong public pressure for change. Simultaneously, public concern is limited to a fairly small group of activists. Whie polls continue to show that at least two thirds of the public is concerned about televised violence and excessive commercials, few of those polled are sufficiently aroused to take any action.

As for television itself, despite its defensiveness, some good will toward better television for children is expressed by industry representatives. It is of interest to note that in a recent survey which was part of a larger study of policy options for improving television for preschool children, Gaddy (1983) found that 93% of a sample of industry executives agreed that television could be made more educationally effective. More importantly, 63% of the industry respondents said television *should* be made more educationally effective.

At the same time, one indicator of a low potential for change is that efforts to produce some new form of special national forum for children and television have never succeeded. In an examination of the many proposals made over the past 20 years to develop an operating national center for children and television, Rubinstein (1981) concludes that there is no strong support for such a continuing institution. It seems paradoxical that such a mechanism which should, and could, serve all the parties concerned—the public, the industry, and the government—has insufficient support from any one of the three to bring it to fruition.

All the above circumstances define the public policy dilemma relating to better television for children. At this time, the best hope is that some improvement will come from a growing public awareness that television is indeed teaching our children and that the young viewer can and should be served better. As in so many other areas of social policy, if and when a critical mass of public concern develops, changes will begin to take place.

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Senator SIMON. Dr. Huston.

STATEMENT OF ALETHA HUSTON

Dr. HUSTON. Mr. Chairman, members of the committee, I am honored to be here representing the American Psychological Association, to testify on this topic.

I am Professor of Human Development and Psychology at the University of Kansas and have been for the last 10 years the co-director of our Center for Research on the Influences of Television on Children, which has an acronym, CRITC. I am also chair of the American Psychological Association's Task Force on Television in Society and have been doing research on this topic for close to 20 years.

I am going to try to emphasize things that have not already been said by Dr. Rubinstein.

The consensus of the Surgeon General's Advisory Committee and the National Institute of Mental Health seemed to be very widely accepted by almost everybody who was not affiliated with the television industry until a review article was published two or three years ago in the Psychological Bulletin, a very prestigious journal, by a newcomer to the field named Friedman, who questioned whether there really is a causal relation between television violence and aggression.

I have submitted for the record a published reply to that piece, disagreeing with his interpretation. I certainly support the conclusion that there is not only a correlation—and incidentally, everybody on every side of the controversy admits there is a correlation; people who watch a lot of violence are more aggressive; the issue is does the violence cause the aggression, or is there some other reason.

In the research community we use different ways of trying to assess causality. One of them is the experimental method, in which we assign people to see different kinds of television. And many of the studies that are summarized in your collection here are experimental studies. Those have the virtue of being able to pinpoint causality because you can know that the differences between people who are seeing different programs are randomly distributed so that the thing that is causing the violence or the aggression after they see the program is in fact what they saw.

The longitudinal studies that have been done—and there have been several—and the studies by Eron and Huesmann, to which Dr. Rubinstein referred are very important. I would like to just add one thing that is, I think, important about those studies.

The original study of the 8-year-old children was an attempt to investigate all the causes of aggression that could be found in childhood, so they measured all kinds of things about the families, the childrearing practices, neighborhood experiences, and so on.

Ten years later, the single best predictor of aggression when those children were 18 was what they watched on television when they were eight—not what their families did, not what their social class was, not all the other things that were measured. So we are talking about a fairly important phenomenon here.

There is a huge amount of research on this topic, probably more than almost any other social issue, and I think of better quality on the whole, although any one study can be challenged.

Why do we still have the argument? Dr. Rubinstein has pointed out that the effect is consistent, but small. Not all of us are affected in the same way. However, a small effect is an important effect for our society.

Another reason why people tend to dismiss these studies sometimes is that they do not take childhood aggression very seriously. Children hit; they yell; they do things that lots of kids do, and so people ask, what does that have to do with serious violence.

In fact, there is now a lot of evidence that children who are highly aggressive are at great risk for later criminal violence and family violence.

One of the things that Huesmann and Eron found is that the people who were highly aggressive as children are more likely to engage in child abuse and spouse abuse as adults. These kinds of violence are sometimes hard to observe.

There are other effects of violence on many of us who may not be inspired to be aggressive. You have mentioned desensitization; you mentioned becoming insensitive to the violence that we see in our everyday lives. There is evidence that that happens.

There is also evidence that television violence leads us to be more approving of violence as a solution to problems. Even if we do not do it ourselves, we think it is all right for other people to do it.

Desensitization and approval are outcomes that we need to be concerned about as well as the specifically aggressive outcomes of television violence.

We have a new phenomenon in television that has spread across the Nation in the last 10 years—cable and videotape recorders as alternative means of distribution.

Now, I certainly would not let the public broadcasters or the over-the-air broadcasters off the hook. For the last 20 years, the content analyses have shown an average of somewhere in the neighborhood of five incidents per hour of violence on network television, and on children's television, it is anywhere from 15 to 25 incidents per hour. So they certainly have their share of violence.

But there are some restraints on the kinds of violence they display. Those restraints do not apply to a lot of cable channels or to videotapes, and there is a whole new level of explicit, graphic, bloody violence being shown on cable and on videotapes. There is a lot of evidence that children are watching those movies and programs; they are watching R-rated and X-rated movies, which are readily available.

Senator SIMON. I do not wish to interrupt, but if you can conclude your testimony, we could move on.

Dr. HUSTON. All right. Let me just comment that I think that the networks believe that violence sells. I am not so sure that it really does, to tell you the truth. I am not so sure it is as important as people believe it is. But they believe that it is important, and so any time you ask one of them to try to restrain themselves they say, "Well, we are afraid to do that because we may lose our audience to some other station."

It seems to me this bill has the great advantage of providing them with the opportunity to avoid that problem and to avoid some of the competitive risk in trying some differences in the kinds of programming that they use. I would certainly support the bill.

Senator SIMON. We thank you very much, Dr. Huston.

[Prepared statement follows:]

American
Psychological
Association

TESTIMONY OF

Aletha C. Huston, Ph.D.

Professor

Department of Human Development and Family Life, and Psychology

and

Co-Director,

Center for Research on the Influence of Television on Children

University of Kansas

on behalf of

THE AMERICAN PSYCHOLOGICAL ASSOCIATION

Mr. Chairman, it is an honor to be invited to testify to this committee on behalf of the American Psychological Association on the subject of television violence and its effects. I am Dr. Aletha Huston, Professor of Human Development and Psychology at the University of Kansas. I am also Co-Director and Co-Founder of the Center for Research on the Influence of Television on Children (CRITC), established in 1978 at the University of Kansas. I have been conducting research on television effects for almost 20 years, beginning with an investigation commissioned for the United States Surgeon General's Advisory Committee on Television and Social Behavior in 1970. I am currently Chair of the American Psychological Association's Task Force on Television and Society.

In my remarks today, I will briefly summarize the accumulated evidence concerning the effects of television violence on children and adults, and I will address a few controversies arising from that evidence.

First, let me provide a brief bit of background. In 1985, the American Psychological Association adopted a resolution stating that the great majority of research studies have found a relationship between viewing violence and aggressive behavior. Their conclusions agreed with those reached by the United States Surgeon General's Advisory Committee on Television and Social Behavior in 1972 and a panel of experts assembled by the National Institute of Mental Health in 1982. This consensus, representing researchers with a wide variety of perspectives, was challenged in 1984 by a newcomer to the field, Jonathan Freedman, whose interest was apparently sparked by a graduate seminar. His review of the literature was widely distributed to policy makers by the television industry. Members of this committee have probably received copies. I, along with many others, believe that his paper seriously misrepresents the accumulated evidence, and I offer for the record a copy of a reply written by my colleague, Dr. Lynette Friedrich-Cofer and myself, that was published in the November 1986 Psychological Bulletin. I will try to summarize some of the major points here.

First, people on all sides of the controversy agree that viewing violence on television is correlated with aggressive behavior. That is, people who watch a lot of violence are more often aggressive than those who watch relatively little violence. The correlations occur for children, adolescents, and adults.

The critical question is whether viewing violence causes aggression. I believe that there is strong evidence that the answer to this question is also yes. In the social sciences, we use experiments as one way to test causality. In an experiment, people are randomly assigned to watch violent television programs or to watch nonviolent programs; then their aggressive behavior is measured. There are many experiments with children and adults showing that people are more aggressive after watching a violent program than after a nonviolent one, but one can reasonably question whether laboratory findings generalize to real life.

For that reason, a few experiments have been carried out in real world settings. For example, in our study for the Surgeon General's Committee, we observed 4-year-old children's behavior for nine weeks in their classrooms. For four of those weeks, some groups of children were shown Batman and Superman cartoons every day; other groups (the control group) were shown nonviolent films about visits to the post office and the circus. A third group saw Mr. Rogers' Neighborhood, a program that presents prosocial ways of resolving conflicts. Children who saw the violent cartoons were subsequently more likely to hit other children, call people names, fail to obey classroom rules, and become impatient when they encountered minor frustrations.

Experiments are especially valuable because we can pinpoint cause and effect. Because people are randomly assigned, we know that the differences between viewers and nonviewers are due to the television programs they saw, not to other experiences. However, an experiment cannot represent the 20+ hours per week of television that the average child sees for many years.

Several longitudinal studies have followed children over time. Leonard Eron and Rowell Huesmann at the University of Illinois at Chicago followed a large group of individuals for 20 years, from age 8 to their late 20's. Viewing televised violence in childhood predicted boys' aggression in the late teen years and in adulthood. In fact, childhood television viewing was a better predictor of teenage aggression than social class, parent's behavior, child rearing practices, and a host of other qualities measured when the children were 8 years old. A number of other longitudinal studies in the United States and several other countries produced similar findings.

It is impossible in such a short time to give more than a smattering of the available research. There is more published research on this topic than on almost any other social issue of our time. Virtually all independent scholars (that is, those not affiliated with the television industry) agree that there is evidence that television violence can cause aggressive behavior. Why, then, does the controversy continue?

First, the effect is consistent, but small when one examines only group averages. Of every 100 children or adults who see a typical week of violent programs, only a few may be inspired to acts of violence. Nevertheless, violent actions of even a small minority affect us all.

Second, some people dismiss minor forms of childhood aggression, as socially unimportant. There is now overwhelming evidence, however, that children who hit, push, and call names are at high risk for family violence, and sometimes criminal violence as adults.

And third, television violence can affect attitudes and values even for those of us who are not often or ever inspired to acts of violence. Children and adults who watch television violence can become desensitized; when they see violence in the real world, they are less likely to empathize or attempt to help the victim. Heavy viewers of television violence approve of violent solutions to problems; they believe that aggression is the appropriate and successful way to resolve conflict and frustrations. Heavy viewers also believe that the real world is a violent place -- even more violent than it really is.

When television was introduced in the late 1940's in the United States, it spread very rapidly. By 1960, over 90% of all homes had TV sets. The last ten years have witnessed the spread of two more major technological innovations -- cable and videotape recorders -- that have altered our television experience drastically. Broadcast television has for many years carried a lot of violent programming, but there have been some restraints on displays of hostility, gore, and pain. Cable movie channels and videotapes have no such restraints. Children and adults have easy access to R- and X-rated films, many of which contain very graphic, explicit violence. Children aged 10 and 11 regularly watch films such as Friday the 13th and the Texas Chain Saw Massacre that are intended for an older audience. I do not mean to suggest that the violence on broadcast television is no longer a problem. It is. Adult programs contain an average of about five incidents of violence per hour; children's programs have much higher rates (between 15 and 25 incidents per hour). But, cable and commercial videotapes have introduced a new level of more serious violence, often with sexual overtones, that makes this issue more pressing than ever.

Members of the Congress in both houses have wrestled with this problem for many years. The first Senate hearing to consider the issue occurred in 1955. One major barrier to legislative solutions is the fact that most United States television production and broadcasting is advertiser-supported; stations and networks are intensely competitive. Unfortunately, that competition contributes to conservatism and sameness in programming. Many people in the industry believe that violence sells. They are unwilling to risk losing their competitive edge by reducing violence. It is expensive and commercially risky to produce and air innovative programs.

Legislative options are limited by the constitutional protection of free speech. Our government cannot dictate or censor television content. As a long-time member of the American Civil Liberties Union, I am a fervent supporter of freedom of expression. At the same time, the evidence for the negative effects of violence on individuals and on the society as a whole is strong. Even if there were still some doubt about whether research has "proven" a causal effect of violence, it seems only reasonable to avoid the considerable risks of failing to act. The United States has a rate of violent crimes several times as high as almost all other industrialized countries. We also have much more violent television than most other countries.

The bill under consideration by this committee provides one means by which government can pave the way for a reduction in television violence without direct interference in decisions about media content. It reduces the competitive risk for those broadcasters and distributors who want to reduce violence. It allows opportunities for exploring alternative programming strategies that may lead to more positive and more diverse content. Reducing regulation in this instance may lead to greater freedom and diversity of expression on the media.

Mr. Chairman, thank you once again for the opportunity of presenting our views on this important problem. I would be happy to answer any questions you might have.

Appended:

Friedrich-Cofer, L. & Huston, A. C. (1986). Television violence and aggression: The debate continues. Psychological Bulletin, Vol. 100, pp. 364-371.

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Television Violence and Aggression: The Debate Continues

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Many social scientists believe there is a causal relation between viewing television violence and aggression. That majority consensus has recently been challenged on the grounds that the data are inconsistent, that different methods of study may be subject to systematic biases, and that the findings have limited generalizability to real-world violence. In this review we reply to these challenges. We conclude that the data support a bidirectional causal relation between viewing television violence and aggression, that the potential threats to the internal and external validity of studies using different methods are not likely to produce a positive bias, and that the findings can be generalized. The available research is placed in a theoretical context encompassing multiple psychological processes and developmental change, and social policy implications are discussed.

Since the advent of movies and particularly television, there has been social concern about the potential effects of media violence on the attitudes, values, and aggressive behavior of young viewers. A large body of psychological research on these questions was summarized and evaluated in the 1972 Surgeon General's Report (Surgeon General's Scientific Advisory Committee on Television and Social Behavior, 1972) and the 1982 report from the National Institute of Mental Health (Pearl, Bouthilet, & Lazar, 1982). Their conclusion that television violence has a causal effect on aggressive behavior for children and adolescents was recently reaffirmed by the American Psychological Association (1985).

The majority consensus of the social science community, reflected in these reports, has recently been challenged. Freedman (1984) concluded that the available empirical evidence does not support a causal relation between television violence and aggression and does not justify efforts to influence public policy. He argued that laboratory research is irrelevant to the issue because it lacks external validity, and that field experiments and longitudinal studies have produced weak and inconsistent results.

Cook, Kendziersky, and Thomas (1983) concluded that there is a small but reliable effect of television violence on aggression, but raised conceptual and methodological questions about the interpretations in the National Institute of Mental Health report. They argued that convergence of findings from different methods (e.g., laboratory experiments and field studies) could be due to common biases across methods, and they questioned whether the aggression measured in most studies can be generalized to socially important forms of violence such as delinquent and criminal behavior.

In this review we defend the majority consensus and reply to some of the issues raised by Freedman (1984) and by Cook et al. (1983). The internal and external validity of the available studies is discussed. Particular attention is given to potential sources of bias inherent in the stimuli, settings, and measures used, and to the generalizability of the findings to situations of social concern. Finally, both theoretical and social policy implications are discussed.

Experimental Studies in Laboratory and Field Settings

Laboratory Experiments

Most reviewers agree that laboratory experiments are consistent in showing that viewing violent television leads to aggressive behavior for both children and adolescents (Andison, 1977; Freedman, 1984; Stein & Friedrich, 1975). Laboratory experiments generally have high internal validity because random assignment of subjects to treatments and manipulation of the independent variable permit causal inference and ensure that the differences between groups are not a function of other unmeasured variables.

Stimuli

Freedman (1984) raised three major questions about the external validity of laboratory studies. One challenge concerned the degree to which the stimuli used represent real-world television. In the early studies of young children, films were experimentally constructed (Bandura & Walters, 1963); however, in many studies of children and adults, real television programs or films were shown (Berkowitz, 1984; Collins & Getz, 1976; Stein & Friedrich, 1975). In almost all of these investigations, nonviolent control programs were included in an effort to isolate the violent content of the experimental treatments as the important variable.

The stimuli used in laboratory experiments were not atypically violent or unlike normal programming. Content analyses

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The authors made equal contributions to the article; therefore, they are listed in alphabetical order.

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since 1968 have demonstrated that there are 5 or 6 incidents of violence per hour in prime time television and from 15 to 25 incidents per hour in cartoons (Signorielli, Gross, & Morgan, 1982). Indeed, ethical considerations often led experimenters to use programs that did not reflect maximum levels of violence available in real-world television.

Setting. A second criticism of laboratory studies is that their artificial settings focus attention on the television content and lead to experimenter demand for imitation. Although such demand may occur, there is no evidence that it accounts for the effects of aggressive television. On the contrary, for children, aggressive television is more likely to produce aggressive behavior when the experimenter leaves the child alone than when the adult remains during the test of aggression (Stein & Friedrich, 1975). Similarly, in studies of adolescents and adults, the evidence contradicts the hypothesis that experimenter demand accounts for aggressive imitation (Berkowitz & Donnerstein, 1982).

Measures of aggression. The third major criticism of laboratory studies concerns the external validity of measures of aggression. Some studies of children have measured "playful" punching of Bobo dolls or other aggressive toy play, but interpersonal aggression in play groups or in classrooms was observed in other studies (Ellis & Sekyra, 1972; Ross, 1972; Steuer, Applefield, & Smith, 1971). Analog measures, such as administering shock or pressing buttons to interfere with another's activity, constitute another index of aggression (Collins & Getz, 1976; Liebert & Baron, 1972). The validity of analog measures is supported by the finding that children's responses on a "hurt" machine were correlated with naturally occurring interpersonal aggression (Johnston, DeLuca, Murtaugh, & Diener, 1977). Finally, children's selections of aggressive, avoidant, or prosocial solutions to interpersonal conflict formed an index in investigations across a wide age range (Collins, 1973; Leifer & Roberts, 1972). The preponderance of results for all these measures was positive (Stein & Friedrich, 1975).

Summary. Laboratory studies make an important contribution because of their high internal validity. Challenges to external validity suggesting that the television programs and behaviors measured are unrepresentative of the "real world" or that the results are due to experimenter demand do not receive strong support from a careful examination of the literature. The potential biases in the laboratory method are both positive and negative. The effects of television violence could be magnified because the impact of other variables is minimized, but they might also be underestimated because the stimuli used are brief and often less violent than the television typically available at home.

Field Experiments

The field experiment appears at first glance to be the method of choice for evaluating causal hypotheses in real-world settings. It has the advantages of random assignment of people to viewing conditions and experimental manipulation of the stimuli. External validity is enhanced by the use of natural settings, relatively long time periods, and measurement of everyday behavior.

Field experiments have been conducted with preschool children in nursery school settings, with young adolescent boys in residential settings, and with male adolescent delinquents who were incarcerated. The results have been mixed, but we assess them differently than Freedman (1984) did in several respects. Some aspects of these studies were not presented by Freedman; therefore, they are summarized briefly here.

In one field experiment (Friedrich & Stein, 1973), children in a nursery school were assigned to view violent cartoons, neutral films, or prosocial television for 12 days across 4 weeks. Aggressive behavior was recorded during free play. The main effect of the television program was not significant, but as predicted, there was a significant Baseline Level × Treatment interaction. For high-initial-aggression children, the change scores for the violent television group were significantly different from the neutral group (Friedrich & Stein, 1973, p. 38); the violent television group remained high, whereas the neutral group decreased considerably. Because the mean baseline scores for the two groups were similar, regression to the mean should have been equally likely for both groups. Children who watched violent television also declined in self-control—that is, tolerance for minor delays, spontaneous obedience of school rules, and task persistence.

Freedman (1984) devoted considerable attention to an early field study of adolescent boys in residential settings who were assigned to watch violent or nonviolent television diets for several weeks (Feshbach & Singer, 1971). In three schools, boys watching nonviolent programs were significantly more aggressive than those watching violent programs, but the study's many methodological problems raised serious questions about its internal validity (Liebert, Sobol, & Davidson, 1972). Wells (1973) replicated Feshbach & Singer's basic design with much improved methods, including baseline data and objective behavior ratings. Boys who viewed a violent diet were slightly, but not significantly, higher in physical aggression than those who viewed nonviolent television. The difference was significant for boys who were above average in initial aggression and for boys who liked their television diets.

In a series of experiments in Belgium and the United States that was heavily criticized by Freedman (1984), violent and nonviolent movies were shown to groups of institutionalized delinquent and neglected boys for 1 week (Leyens, Parke, Camino, & Berkowitz, 1975; Parke, Berkowitz, Leyens, West, & Sebastian, 1977). In the Belgian study, physical aggression increased significantly after viewing in both cottages assigned to violent films, but did not increase in the neutral film cottages. Total aggression, including both physical and verbal aggression, increased primarily in the violent film cottage that was initially more aggressive. In two U.S. studies total aggression was significantly higher in two cottages viewing television violence for 5 days than in cottages viewing neutral films.

The external validity of field experiments is enhanced by the use of real television programs over a period from one to several weeks, placement in real-life settings, and measurement of naturally occurring aggression. Nevertheless, there are serious methodological problems in some cases.

Stimuli. In existing field experiments, the violent stimuli were typical of materials viewed frequently by the age group studied. In several instances, however, there were major problems in finding control stimuli that were as attractive as the violent programs (Feshbach & Singer, 1971; Parke et al., 1977, first study; Wells, 1973). Only two studies included nonviolent programs that elicited as much attention (Friedrich & Stein, 1973) or were rated as attractive (Parke et al., 1977, final study) as the violent programs. The frustration resulting from being required to watch disliked programs could have generated aggression that counteracted the effects of viewing violence in the field experiments that failed to find an effect of violent television. When program attractiveness was controlled by comparing boys in both treatments who liked their assigned television diets, the violent diet group had significantly higher levels of physical aggression than the nonviolent diet group (Wells, 1973).

Settings. Although field experiments occur in real-life settings, the locations do not represent the most common viewing environment—the home. Adolescents in residential institutions may not represent the larger population well. One field experiment conducted on adults at home is fraught with threats to its internal validity (Loye, Gorney, & Steele, 1977).

Potential invalidity is also introduced by the reactions of subjects and staff to the disruption of their routines and to the imposition of restrictions on their freedom of choice in television viewing. These problems were probably minimized in the preschool setting by the brevity of the sessions and the fact that television viewing sessions fit an accustomed pattern of leaving the classroom for special activities (Friedrich & Stein, 1973). Similarly, the manipulation by Parke et al. (1977) was probably relatively unintrusive because it lasted only 1 week and replaced undesirable activities. In the other investigations (Feshbach & Singer, 1971; Wells, 1973), the experiment required a substantial amount of time, and students were sometimes required to give up desired activities.

Measures of aggression. The aggressive behaviors coded represent theoretically central characteristics of children and adolescents, including physical attacks on other people (hitting, banging, pushing, kicking, squeezing, choking, holding down, and throwing objects), threats and verbal abuse, and destruction of property. These serious forms of interpersonal and object aggression are conceptually distinct from playful and fantasy aggression, and the two types of aggression are not correlated in the behavior of young children (Friedrich & Stein, 1973).

External validity is achieved, however, with some loss of internal validity. Freedman (1984) criticized Parke et al.'s studies because whole cottages received the same treatment and were observed interacting with one another, but were treated as independent cases in statistical analyses. Interdependence of subjects' behavior could reduce error variance in all existing field studies.[1] However, the likely bias depends on whether whole groups experienced the same treatment (Parke et al., 1977) or were assigned to different treatments (Feshbach & Singer, 1971; Friedrich & Stein, 1973; Wells, 1973). In the former case, the mean difference might be inflated; in the latter it might be reduced, causing a negative bias.

On a more substantive level, external validity is enhanced by administering the same television treatment to whole groups because real-world media effects occur in ongoing family and peer groups that share viewing patterns and whose aggression is interdependent. Whole families have similar levels of aggression (Patterson, 1976), as do adolescent male friendship groups (Cairns & Cairns, in press). If violent television has direct effects on a few members of such groups, it may well reverberate throughout the family or peer group system.

Freedman's discussion of field experiments implies that the results are spotty and inconsistent because significant findings occurred for only a few of the dependent variables measured. The variables on which significant effects occurred were most often composites of subcategories, not a chance selection from multiple measures. For example, significant findings in the Parke et al. (1977) studies occurred for general aggression, a composite of all categories, or on physical aggression, a composite of four. Significant effects in Friedrich and Stein's (1973) study occurred for interpersonal aggression, a composite of several subcategories representing the most theoretically central form of aggression. In fact, the failure to find effects on playful, fantasy aggression is of substantive interest.

Summary. The best designed field experiments form a moderately consistent pattern suggesting an effect of television violence on aggression and self-control, particularly for subjects with relatively high baseline levels of aggression. Negative results occur most often in studies with serious threats to internal validity created by unappealing, nonviolent control treatments and disruption of ongoing social settings that may increase subjects' reactivity to the manipulation.

The overall bias of field experiments appears to be in the direction of underestimating the effects of television violence. The experimental manipulation is weak because the programs shown are a tiny fraction of the television that the subjects have watched in their lives or even during the experiment in some cases, but the television treatment must be sufficiently robust to produce effects on aggression in methodologically noisy natural contexts in which many extraneous variables contribute to the variance and the usual laboratory controls are not operating.

The rate of aggression in natural settings is probably underestimated by observations collected by adults in settings in which teachers or counselors are present because aggression is negatively sanctioned in schools and institutions. The inhibiting effects of adults should affect both experimental and control groups equally, but the reduction in level may militate against finding differences between treatments.

Correlational Studies

A large number of correlational studies involving thousands of subjects across widely differing levels of age, socioeconomic status, and ethnic background have yielded consistently modest, but positive correlations (ranging from .10 to .35) between viewing naturally occurring violence and aggression (Freedman, 1984; Stein & Friedrich, 1975). Interpretation of these correlations hinges on two questions: causal direction and possible contributions of third variables to the association between viewing and aggression.

Longitudinal Studies

Longitudinal studies provide the opportunity to assess temporal relations among variables and to test causal hypotheses.

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[1] The only way to achieve statistical independence would be to observe only one person in each group setting, a procedure that is unrealistic in field studies.

The available studies support the hypothesis that the relations between viewing violence and aggression persist over time (Eron, Huesmann, Lefkowitz, & Walder, 1972; Huesmann, 1982; Huesmann, Lagerspetz, & Eron, 1984; Milavsky, Stipp, Kessler, & Rubens, 1982; Singer & Singer, 1981; Singer, Singer, & Rapaczynski, 1984). All show positive correlations between viewing at one time and aggression at another.

Cumulative and enduring effects. Freedman (1984) proposed that if television violence has a causal effect, it should be cumulative and the correlations should increase with age. By that line of reasoning, correlations also ought to increase with age if aggressive personality attributes caused violent viewing. Hence, the fact that correlations do not increase consistently with age has little bearing on the issue of causal direction.

Causal analyses. The longitudinal method is emphasized by Freedman (1984) and Cook et al. (1983) as an excellent tool for testing causal relations. The basic logic of causal analyses of longitudinal data is to determine whether a variable (e.g., television viewing) measured at one point predicts the other variable (e.g., aggression) measured at a later point. If naturally occurring *variations* in one variable predict later *variations* in the other variable, then the hypothesis that *A* causes *B* is supported. Such analyses may reflect delayed effects of television viewing or critical periods during which television has particular effects, as Freedman (1984) suggests, but they can be interpreted more parsimoniously as assessments of temporal relations.

Longitudinal findings support a bidirectional model of causality—television violence influences aggression, and aggressive predispositions influence the preference for television violence. In the first longitudinal investigation (Eron et al., 1972), cross-lag correlations demonstrated, for male subjects only, that violence viewing at age 8 predicted aggression at 18, but that aggression at age 8 did not predict violence viewing at 18. However, any causal conclusion was weakened by statistical artifacts in the cross-lag procedure (Cook et al., 1983). Nevertheless, of a large number of parent, family, and socioeconomic variables measured at age 8, television was the single best predictor of aggression in 18-year-olds (Eron et al., 1972).

Singer and Singer (1981) presented correlations between preschool children's viewing assessed by parental diary records and observed aggression in preschoolers for four waves of data collected in 1 year. Children's viewing of "action" programs was positively related to later aggression for both sexes in all six pairs of wave comparisons. The reverse comparison, predicting later waves of viewing from earlier aggression, also yielded consistently positive correlations. In elementary school, viewing of "realistic action TV" predicted later aggression and children's belief in a "scary world" (Singer et al., 1984).

A more sophisticated analysis performed by Huesmann et al. (1984) consisted of regressions designed to determine whether earlier viewing predicted later aggression after initial levels of aggression and age were controlled. Their data consisted of three annual waves of data collected in the United States and Finland for children who were in the first or third grade at the initial wave. The reverse causal direction was tested by regressions predicting later violence viewing from earlier aggression, controlling for grade level and initial viewing.

The findings supported a bidirectional model: Early violence viewing predicted later aggression, and initial aggression predicted later violence viewing. The coefficients were consistently positive for both genders in both countries; some reached statistical significance, others did not. Among boys, violence viewing predicted later aggression primarily for those who identified with television characters.

Milavsky et al. (1982) performed regressions for elementary school children assessed six times during 3 years and adolescent boys assessed five times during 3 years in a panel design. Violence viewing in the earlier wave was tested as a predictor of aggression in the later wave, controlling for earlier aggression. They estimated LISREL models as well. In general, the coefficients were positive; some were significant, but many were not. The authors concluded that television viewing made a negligible contribution to the variance accounted for.

Although Freedman (1984) accepted their negative conclusion, Cook et al. (1983) noted that the contribution of viewing television violence was positive in most analyses, and that the coefficients were larger the longer the time lag between the measures of viewing and aggression. They criticized the analysis for using low-power statistical procedures and failing to probe models that might demonstrate the cumulative impact of television or interactions with subject variables such as gender and socioeconomic status (Cook et al., 1983).

Two other problems are equally serious. The causal analysis was limited because they did not test the reverse hypothesis that earlier aggression predicted later violence viewing. Second, naturally occurring aggression scores are typically highly skewed, but no correction for skewing was reported. Unlike analysis of variance, causal modeling analyses are readily affected by nonnormal distributions, making any model difficult to replicate.

Summary. Longitudinal investigations support a small, but consistent effect of viewing violence on aggression. Early viewing was positively related to later aggression in all studies, even when earlier aggression was partialed out. Some relations were statistically significant and some were not, but there were virtually no instances of negative relations between viewing and aggression~~. If~~ the real relation were zero, one would expect an approximately equal number of positive and negative correlations.

Causal analyses of longitudinal data could be biased toward underestimation of the association of variables because the initial correlation between viewing and aggression is partialed out. As a result, the factors that contributed to the association, including earlier television viewing, are excluded. What these analyses evaluate is whether variations in viewing at one time contribute to *changes* in aggressive behavior at a later time.

Third Variables

A second major question about correlational studies is the possibility of selection bias or the contribution of third variables to the association of viewing and aggression. Cook et al. (1983) suggested that relevant background variables have not been adequately controlled in cross-sectional surveys. However, inspection of the data shows careful attention to a wide range of theoretically relevant background and personality variables.

Several early studies of elementary and adolescent children examined social class, IQ, school achievement, age, parental aggression, parental warmth, restrictiveness, punitiveness, aspirations for the child, parental viewing of violence, control of television viewing, and styles of family communication (Chaffee & McLeod, 1972; Lefkowitz, Eron, Walder, & Huesmann, 1972; McIntyre & Teevan, 1972). Similarly, measures of perceived realism of television, aggressive fantasy, sex role identification, aggressive predispositions, parental viewing, parental aggression, social class, and the child's achievement level were entered in regressions by Huesmann et al. (1984). None of these variables accounted for the relation between viewing and aggression.

Belson (1978) conducted a still more extensive test of potential selection variables. A stratified sample of 1,565 boys aged 12–17 living in London participated in two extensive interviews in which data about television viewing history, aggressive behavior, and numerous other variables were obtained. Measures of viewing and aggression were derived. In addition, a pool of 227 possible predictors of violence viewing and aggression was assembled. They included age, demographic information, neighborhood qualities, locality and home conditions, physical strength, physical maturation, attitudes, type of school, school performance and attitudes, child rearing practices, reports of childhood behavior and temperament, and nonaggressive delinquent behaviors (e.g., minor theft).

High and low viewers of violence were statistically equated for a subset of variables selected from the pool to maximize their correlation with aggression and with viewing violence.[2] This procedure partialed out the contribution of a large number of possible third variables that might account for the relation between viewing and aggression. The aggression scores of the high- and low-violence viewers remained significantly different on all indices of aggression.

Although it is logically impossible to ensure that all possible variables contributing to selection bias have been accounted for, the extensive analyses by Huesmann et al. (1984) and Belson (1978) provide strong evidence for the conclusion that the relation of viewing violence to aggression is not accounted for by associated background and personality variables.

Potential Sources of Bias

Correlational studies have high external validity because they are nonintrusive assessments of naturally occurring viewing and behavior. Internal validity is more difficult to evaluate. Viewing is usually assessed by self-reports of unknown validity. There appears to be no strong reason to assume that such reports overestimate or underestimate violence viewing systematically.

Freedman (1984) argued that measures of viewing violence could represent television viewing in general. For example, in Belson's (1978) study, serious acts of aggression were correlated with total television viewed and the amount of nonviolent television viewed as well as with violent television viewing. However, violence viewing was highly correlated with total viewing ($r = .87$) and with nonviolent program viewing ($r = .72$). When the amount of violent television viewed was controlled, there was no relation of total viewing to aggressive behavior.

Measures of aggression. The measures of aggression include self-reports in interviews, questionnaires, peer nominations, parent reports, and observations. Extensive evidence exists for the validity of peer nominations (Huesmann, Erón, Lefkowitz, & Walder, 1984). Self-reports from interviews, such as those conducted by Belson (1978), also have good evidence for validity, but self-reports on questionnaires are subject to more threats to validity (Elliot & Ageton, 1980; Olweus, 1979).

The measures in correlational studies appear better suited to assess long-term learned patterns of behavior, attitudes, and values than to measuring change over time. Peer nominations, for example, are based on children's long-term experience with each other and on reputations that may not alter easily even if behavior changes. In a quantitative review of the outcomes of psychotherapy with children, peer ratings of behavior changed considerably less than indices based on direct observation, therapist and parent ratings, or subject performance (Casey & Berman, 1985). Self-reports include behaviors exhibited over several months or even years. Most of the measures in correlational studies, including longitudinal studies designed to measure change, appear to assess trait rather than state and may not be sensitive to changes in behavior over relatively short periods.

Conclusion

Convergence

The weight of the evidence from different methods of investigation supports the hypothesis that television violence affects aggression. Virtually all reviewers agree that laboratory studies of children and adults demonstrate positive findings and that field surveys produce modest but consistently positive correlations. Our review of the field experiments and longitudinal causal analyses disputes Freedman's negative conclusions. The field experiments produced mixed results, but on balance, they are positive. The longitudinal causal analyses indicate small but consistent relations of television viewing to later aggression.

The convergence argument is valid only if shared biases are not operating in the same direction across laboratory experiments, field experiments, and correlational studies. Our review suggests that both positive and negative potential biases exist within as well as between methods. Laboratory experiments have high internal validity. The assertions that they are positively biased by the selection of unusually violent materials, experimenter demand, and artificial or unusual measures of aggression are not supported by a careful examination of the literature. One can make an equally good case that they are negatively biased by selection of benign and brief stimuli, experimenter-produced inhibition of aggression, and measures that fail to sample existing aggressive tendencies.

In field experiments, the bias appears more likely to be negative than positive because the treatment is relatively weak in comparison to naturally occurring television viewing, but must influence naturally occurring behavior. There is considerable danger of negative reactions to control treatments and to the intrusion of an experimental manipulation into an ongoing social setting, and aggression may be underestimated by adult observation.

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[2] The analysis procedure was the stable correlates technique, a statistical procedure that is analogous to multiple regression with fewer assumptions (Belson, 1978).

In correlational studies, selection bias is the major potential threat to validity. Several careful efforts have been made to test the contribution of a wide range of demographic, intellectual, personality, and social attributes to the correlation of violence viewing with aggression. In all cases, the correlation remains robust. It is reasonable to conclude that selection bias does not explain the correlation between natural viewing of violence and aggressive behavior.

Finally, longitudinal causal analyses may also underestimate effects because the methods and measures of aggression are better suited to detecting stability of behavior than to detecting change.

Generalization to Socially Important Forms of Aggression

The forms of aggression measured in studies of television go well beyond "boisterousness" and "incivility" (Cook et al., 1983, p. 193); they have clear relevance to serious forms of aggression directly. For example, the category of aggression most clearly related to television violence in Belson's (1978) study was "serious acts of aggression": it included firing a revolver at someone, attacks with a knife, setting fire to a building, hitting someone in the face with a broken bottle, and knocking someone off a bike. Several other studies of adolescents include delinquent and criminal actions. Most correlational and observational studies focus on physical aggression—hitting, kicking, biting, threatening, and other forms of direct physical attack.

In addition, physical and verbal childhood aggression of the type measured by peer nominations predicts adult physical aggression, criminal behavior, and serious crimes (Farrington, 1979; Huesmann, Eron, Lefkowitz, & Walder, 1984; Olweus, 1979; Parke & Slaby, 1983). If a constant diet of television violence is causally related to childhood aggression, then it may indeed contribute to the violence that concerns the society at large.

Moreover, criminal behavior is not the only socially important form of violence. Family violence is a major social problem affecting many more people than criminal activity. In one follow-up, childhood aggression (measured by peer nominations), predicted the amount of physical punishment that men and women used with their children and the amount of spouse abuse indulged in by men (Huesmann, Eron, Lefkowitz, & Walder, 1984).

Theoretical Implications

The social issues surrounding television violence sometimes obscure careful theoretical analysis. The theories guiding many early empirical investigations were social learning and arousal theories, both of which led to the prediction that viewing violence would increase aggression. The explanatory power of both theories was limited by simple unidirectional models of causality. Freedman's (1984) critique of the literature was based on the assumption of a unidirectional model. After rejecting the hypothesis that television violence causes aggression, he accepted by default the reverse hypothesis, that aggressive personality attributes cause a preference for viewing violence (Freedman, 1984, p. 244).

Recent social learning theories articulate the reciprocal effects of environmental variables and qualities of the individual (e.g., Bandura, 1978; Mischel, 1979). The theory and research supporting a bidirectional model of the relations between television violence and aggression is consistent with this more sophisticated conceptualization (Stein & Friedrich, 1975). Independent assessment of each direction of causality supports the prediction that both are important.

More complete models might specify interacting variables (e.g., Berkowitz, 1984). It is reasonable to expect that the relation between viewing and aggression varies with individual viewer attributes (e.g., age, gender, cognitions about aggression, and aggressive predisposition), program attributes (e.g., production techniques, plot context), and environmental variables (e.g., cues for aggression, amount of adult-imposed structure, and existing patterns of social interchanges among peers).

A complete understanding of television effects is not advanced by interpreting such variations as evidence of inconsistent results. For example, Freedman (1984) saw no "convincing a priori reason" why viewing violence should predict aggression for male subjects but not female subjects in the research by Eron et al. (1972) and concluded that their result was "weakened considerably by the lack of effect for girls" (p. 241). Yet, gender differences in aggression from early childhood on are well documented (Parke & Slaby, 1983), and they are magnified in adolescence. The incidence of violent offenses increases abruptly for boys after puberty; at age 18, there is a 10:1 difference in the male:female arrest rate for murder (Cairns & Cairns, 1985).

Process. The processes relating television violence to aggression can be divided into immediate, short-term effects on behavior (e.g., activation, arousal, disinhibition, and behavior contagion) and long-term effects involving learning of habitual behavior patterns, attitudes, and values about aggression. Laboratory and field experiments show the short-term effects more clearly than they do the long-term learned patterns. Of course, one would probably not predict long-term effects from a single laboratory exposure or a brief field experiment, given subjects' wide television experience before and after an experiment.

Even if much of the effect of television violence were limited to short-term activation or arousal (and we do not believe that it is), such an effect is important. Aggressive actions committed immediately after viewing can be just as harmful as those instigated by habitual patterns of behavior. Given the frequency of viewing violent television and the millions of children and adolescents who watch it every day, even short-term effects can constitute a major social problem.

Correlational data, including multivariate investigations, demonstrate long-term patterns of learned behavior, attitudes, and values. If television violence produces repeated instigation or disinhibition of aggression, then children exposed to it frequently will probably engage in aggression often. The daily repetition of simple, direct, violent problem solutions on television may function to maintain high levels of aggression and to counteract societal demands for more mature, self-controlled behavior.

Social Policy Implications

The debate about television effects cannot be divorced from social and political contexts. For more than 30 years the principal players—politicians, broadcast industry executives, reformers, and academic researchers—have been locked in alternating positions of dispute and accommodation (Rowland, 1983). Social science research was elevated to a central role in arguments directed toward establishing a relation between violent television and aggressive behavior. The networks questioned social scientists' conclusions and conducted their own research. The major thrust was to press for proof of unidirectional, direct causality.

Responsible psychologists and other social scientists have been obliged to acknowledge the limits of their theoretical and research paradigms. Social science research alone will not settle the policy questions about television fare because current conceptualizations and methods cannot provide irrefutable causal proof. We can at best argue probabilities. The weight of theory and convergent evidence supports the likelihood that television contributes to aggression for many young people.

The policy questions are becoming more urgent and more complicated with the increased availability of cable movie channels and videotape rentals that contain much more explicit violence than is shown on broadcast television. Perhaps social scientists need to acknowledge that while their contributions to the policy debate are important, the dialogue must be widened to include consideration of societal values. The Federal Communications Act states that programs on the public airwaves are to serve the "public interest, convenience, and necessity." The question is not merely out of fallible empirical methods, but what uses and consequent effects of the media are in the public interest.

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Senator SIMON. Professor Kubey.

STATEMENT OF ROBERT KUBEY

Dr. KUBEY. Thank you, Mr. Chairman.

My name is Robert Kubey, and I am an assistant professor in the Department of Communication at Rutgers University in New Brunswick, New Jersey, where I conduct research both on the psychological effects of television and on decisionmaking practices in the television industry. I received my doctorate in the Behavioral Sciences from the University of Chicago.

I am pleased to have the opportunity to bring my views before this committee. I have provided a lengthy written statement from which I am summarizing today and which I have just cut about three more pages out of.

I had considered showing to this committee today an excerpt from a current one-hour television program called "Gorgeous Ladies of Wrestling", also known by the acronym GLOW. I would not be discussing this program today if it were not for the fact that in many areas around the Nation, the program can be seen in the morning or in the early afternoon on Saturday or Sunday, a time when a great many children typically watch television.

I discuss this program because it vividly illustrates how wrong things can sometimes go in American television.

In this program, young women wrestle with one another while dressed in bikinis, leotards, or negligee. The program is broadcast from the Riviera Hotel in Las Vegas, where a largely male audience of gamblers watch these women punch, kick, bite, strangle, gouge, bludgeon, and commit other forms of mock mayhem upon one another.

In one recent televised bout, one wrestling team actually brought a whirling chainsaw and a lit blowtorch into the ring. One woman brandished the blowtorch close to the face of her opponent, who then in mock pain covered her face with her hands, fell to the canvas where paramedics wrapped her face with gauze and rushed her to the hospital.

In another bout, one woman was made to appear as if she was grinding a railway spike into the arm of another woman. This, on a Saturday or Sunday morning, on normal, independent television channels around the Nation.

Now, there is only one reason that a program such as this is on the air. Some people have discovered that they can pay women in Las Vegas to act as if they are beating each other, televise the program, and then make enormous profits by selling the program to independent stations who make their own profit by selling advertising time.

Please recognize that many thousands of 4, 5 and 6 year-old boys and girls watch this program and believe that what they are seeing is real.

Because such wrestling is made to look real, the violence involved is that much more frightening, especially to a child.

Children may imitate such violence, but just as importantly, to my mind, is that they are frightened and disturbed by it and wonder why people would do such unspeakable things to each other. Children are also made insecure that adults would permit people to viciously hurt one another in such a manner.

It is curious to me, and indeed it is outrageous to me, that we would never allow a babysitter or a teacher or a stranger to tell a story to a child about a person who tries to blowtorch the face of another person, but somehow, when this story is told graphically on television, the people who produce and disseminate the story need not answer to anyone.

In my view, we cannot meet our responsibility as parents if we cannot retain some reasonable control over whether our children will be exposed to things that we believe they should not see.

One of the problems with television, especially since the advent of the VCR, is that it is not possible for a parent to always know what his or her child is watching on television. After all, children watch TV in other children's homes as well.

Therefore, a special social responsibility lies with the industry, and in my view the industry too often fails to meet that responsibility.

Industry spokespeople often argue that if people do not like what they see on television, they can turn it off. First, as regards children, they may not have the good judgment to turn it off. Furthermore, some parents have reported to me that their children have been frightened and experienced nightmares after viewing brief 10- and 15-second television promotions that show violent or horrific images advertising a program that will be aired much later in the evening.

One reasonable test of a society's future viability is how it treats its children. And with regard to media violence, we are failing that test.

I am arguing here today that our children should not be sold down the road to profit, and yet daily and weekly on American television and in movie theaters, the best interests of our children are being sacrificed to profit.

We must ask ourselves with regard to this bill what the television industry should be doing fundamentally; to what degree should it be serving the public interests versus its own interests and the interests of the corporate sector.

Nowadays, there is fierce competition between the networks for advertising dollars. But rather than breeding a better product, competition in television often breeds a poorer product and a product not in the public interest. I detail this in my written statement.

Senator SIMON. Please summarize the balance of your testimony, Dr. Kubey.

Dr. KUBEY. I would really like to finish if I could. It will take me about 4 minutes.

Senator SIMON. Unfortunately, we are really under time constraints. Make that 1 minute.

Dr. KUBEY. Let me try and tell you what I have learned from the industry quickly, in 90 seconds, all right?

Senator SIMON. Okay.

Dr. KUBEY. Over the past year, I have been conducting interviews with people working in television for a book I am writing on the industry, and I believe some of the findings may be of interest to the committee. By and large, the people creating American television are very bright and well-educated. Almost all work very hard. It is interesting to note that many do not watch much television for entertainment. Very little of what is currently offered appeals to them.

Many of them are very concerned about the quality of their work and its impact on society, and many are extremely critical of television. The reason for this is that they know first-hand why programs sometimes turn out badly. They know the product could be better.

I have talked with television practitioners who limit their own children's viewing. They too are concerned about violence and commercial values being promulgated by the medium they work in.

There is no question that many of the people working in television today would welcome a less competitive climate and would be supportive of a concerted industrywide effort to improve the quality of programs and reduce violence.

The problem with American television is that these intelligent, hardworking and well-meaning people must perform certain roles because of the structure and aim of the industry, which is at base to attract and hold the largest audience possible.

It means that writers are sometimes told by network and studio executives to inject more action, violence or sex in their scripts, and so the writer delivers what was ordered, or her or she will not be asked to write for that network or studio again.

I support the intent of the bill. I believe it could have positive results. But I think it does not address the real problem. I would rather see a bill that simply permitted television and movie executives to meet to discuss the larger underlying problem of competition for audiences so that they might agree on industry principles that would help reduce violence as well as the many other excesses that result from commercial competition.

And finally, in summary, I have listed in my written statement three additional things that I believe Congress could do which I believe are more definitely within the purview of Congress that I think could definitely help protect children and the general population from what is going on in the industry today.

Thank you for letting me take so long.

Senator SIMON. Thank you, Professor Kubey.

[Prepared statement follows:]

TESTIMONY OF

Robert W. Kubey, Ph.D.

Assistant Professor

Department of Communication
School of Communication, Information, and Library Studies

Rutgers University
New Brunswick, New Jersey

Thank you, Mr. Chairman. My name is Robert Kubey. I am an Assistant Professor in the Department of Communication at Rutgers University in New Brunswick, New Jersey where I conduct research both on the psychological effects of television and on decision making practices in the television industry. My doctorate is in the behavioral sciences. The Chairman, Senator Simon from Illinois, will be pleased to know that I received my degree from the University of Chicago.

I welcome the opportunity to testify on the important matter of television violence and S. 844. I wish today to address myself both to issues that were raised in the previous hearings and to some of the larger issues that have not yet been addressed. I wish to comment on the topic of violence but also to address the more important question of why there is so much violence on television in the first place. In so doing I will discuss industry practices. Over the past year I have been conducting interviews with people working in television for a book on the industry and I believe that some of my findings will be of interest to the committee.

I needn't spend time recounting how many studies have shown or how many distinguished bodies of scientists and health professionals believe that violence on television presents a social problem. Others have addressed themselves to this.

In my view, we have spent too much time on the difficult chicken or egg problem of whether televised violence causes real world violence. In my view we would still have a problem with violence on television even if it could be absolutely proven that not one iota of real world violence is caused by television. Of course there is a great deal of evidence to the contrary. Let me instead draw your attention to just a few of the other effects of television violence.

I had considered showing to you today and perhaps I can still enter into evidence an excerpt from a current one-hour television program called "Gorgeous Ladies of Wrestling," also known by the acronym "GLOW." I would not be discussing this program today if it were not for the fact that in many areas around the nation, the program airs in the morning or in the early afternoon on Saturday and Sunday, a time when a great many children typically watch television. Let me be clear that the program can be seen by anyone with a functioning TV. It is not on cable--at least to my knowledge. I discuss this program because it illustrates how wrong things can sometimes go in American television. In short, the program is unquestionably the most despicable and disturbing program I have ever seen made readily available for children's viewing.

In this program, attractive young women wrestle with one another in various stages of undress, sometimes in bathing suits or bikinis, sometimes in leotards or negligee. The program deviously combines sex and violence and is broadcast from the Riveria Hotel in Las Vegas where a largely male audience of gamblers watche these young women punch, kick, bite, strangle, gouge, bludgeon, and commit other forms of mock mayhem. In one tag team bout, one wrestling team actually brought a whirling chain saw and a lit blow torch into the ring. One woman brandished the blow torch near the face of her opponent. Later, two of the women were put on a stretcher and were allegedly rushed to the hospital after one bit the foot of the other so hard that she could not release her mouth. The program is very frightening to watch.

I should add that the program is also blatantly and offensively sexist. In one attempt at comedy, one of the wrestlers is shown visiting a gynecological office staffed by Doctors named "Feel and Grope." In an other scene one of a group of women wrestlers who worships Satan states that there are no virgins left in Las Vegas for a sacrifice. This in the morning or noon hour on a Saturday or Sunday. Finally the program is jingoistic and exploits American patriotism to commercial advantage by pitting American girls against alleged bad girls from Germany and Russia. In one match, "The California Doll," a bikini clad blonde woman fights "Palestina" a devout Muslim terrorist. The match ends outside the ring with Palestina being put inside a garbage can.

My greatest concern with this program is that a great many children believe that what they see in wrestling is real. In fact, a great many adults also believe that so called "professional" wrestling on television is real. At some ages, almost all children believe that the wrestling that they view is real. Because the wrestling is made to look real, the violence involved is that much more frightening, especially to a young child. It is a wholly different kind of experience for a child than cartooned violence. I will discuss these kinds of differences in greater detail shortly when I compare the difference between graphic violence on television and violence in childrens' fairy tales.

Every adult to whom I have shown this program has been appalled. Many have been sickened and deeply angered. A couple of people have told me that I should not show it to members of the United States Senate. To me it is amazing and frightening that we have reached a point as a society when material made readily available for viewing by young children is so disturbing that it would also disturb and offend the sensibilities of members of the Senate.

If the producers of such a program wish to argue in defense of their product, as I think they might, that their wrestling show pits good girls against bad girls and that the bad girls lose, I would say that there are far less violent and sexist ways to convey the difference between good and bad than in this manner. In point of fact, in TV wrestling the villains often win.

Now, there is only one reason that a program such as GLOW is on the air. Some people have discovered that they can pay women in Las Vegas to act as if they are beating each other, televise the program, and then make enormous profits by selling the program to independent stations who make their own profit by selling advertising time.

The problem we face is not at all new. Over 2,300 years ago Plato wrote in the Republic, and I quote:

> "Then shall we simply allow our children to listen to any story anyone happens to make up, and so receive into their minds ideas often the very opposite of those we shall think they ought to have when they are grown up?"

In my view, we abandon our responsibility as adults if we cannot with some confidence and within reasonable limits not only decide on what our young children should and should not be exposed to but also retain some control over whether they will or will not be exposed to the things we decide upon. One of the obvious problems with television is that it is unreasonable in today's society for a parent to always know what his or her young child is watching on television. I will expand on the problem of involuntary exposure later.

Aggression is an easy sale in television because, like sex, it has to do with primal impulses that we all must keep under control in order to get along in the social worlds we inhabit. Violence and sex also almost always involve some kind of movement and it is widely believed in Hollywood that movement and action hold the viewer's attention. The purveyors of violence in film and television capitalize on these basic facets of human behavior in order to make money.

Even without media violence almost all of us would regularly fantasize about sex and about giving in to violent or aggressive feelings. Films and television, then, are like mass produced dreams. Just as dreams are often expressions of wish fulfillment and may help us function psychologically by permitting us to play out thoughts and wishes that we have but must not give conscious and behavioral expression to, so to do films and television permit us to indulge in similar wish fulfillment. To some degree this is necessary, normal and, indeed, salutary. It is better to fantasize about punching one's domineering boss than to actually engage in fisticuffs. It is also almost certainly better to imagine what damning things one might say to people one is mad at than to actually say these things.

The problem is where to draw the line and it is clear that no one is capable of drawing a perfect line for an entire society, let alone for a single individual. I cannot be exactly sure what television programs my young son should or should not watch. It is clear to me, however, that no young child should view the kind of material I have described here today.

Let me now expand on some of the other negative effects of violence on television. First, without going into detail, there is evidence to show that some heavy viewers of television are inordinately scared of the outside world. Furthermore, some violence perpetrated upon women in film and on television almost assuredly perpetuates the notion among some men that violence is a reasonable way to deal with women. When movie after movie shows women bludgeoned, killed, raped, and injured by men, some male viewers become desensitized. It is particularly disturbing that many films showing women beaten and raped try to make it seem as if the woman either deserved it in some way and/or that she enjoyed being raped. In a powerful study by Linz, Donnerstein and Penrod at the University of Wisconsin, normal college men over a period of five days viewed five films exhibiting violence against women. The men became increasingly desensitized from film to film and in a mock rape trial were found to be more likely to believe that the women brought about the rape and that she experienced less injury than did similar men who did not see the films. I must add that such films do appear on television. Such a study, if replicated enough times and with larger and more varied samples, might demonstrate a clear and present danger posed by such films.

In previous testimony, this committee has heard that entertainment going back to the Greeks contains violence as do children's fairy tales. It does often seem incongruous that for centuries, parents have tried to get their children to go to bed by singing to them about falling out of cradles in trees, about witches shoved in ovens, and the like.

But those who make such an argument in defense of televised violence shown to children fail to recognize that first, fairy tales have developed gradually and have come down through the ages and thus speak effectively to universal concerns and fears of young children that the fairy tales help the child master through the active use of the child's imagination. Second, the fairy tale is usually read to the child while held securely on the lap of a loving parent who can monitor the child's responses. Thirdly, fairy stories are almost invariably about magical and fanciful places long ago or far away. The child thereby is not so readily frightened because the material is distant and not immediately threatening.

In comparison, violent images in the media, particularly the kinds of images I have just described have, first, not met the test of time and will never qualify as great literature or classical art as do fairy tales. Second, the child often watches TV alone or with other children. No parent is present to supervise or decide that the material is unfit for the child. Third, the violence is graphic and appears in the here and now and is far more likely to be immediately threatening to the child.

Children may imitate such violence but just as importantly to my mind is that they are frightened by it and wonder why people would do such unspeakable things to each other. Children are also perplexed about the larger world that permits people to viciously hurt one another. I thank my former professor, Bruno Bettleheim, for some of these ideas concerning fairy tales.

To my knowledge, never before in the history of our species have young children been so regularly exposed to realistic and graphic violence such as I have described. What I am also trying to demonstrate here is that more is at issue than simply whether TV violence causes real world violence. What about the fact that televised violence and horror causes psychological disturbance and nightmares in children in the here and now?

Industry spokespeople will often argue that if people don't like it they can turn it off. First, as regards children, they may not have the good judgment to turn it off. Second, parents cannot reasonably be expected to monitor all of their child's viewing. Sometimes the child is at the home of a friend. Third, some parents have reported to me that their young children have been frightened and experienced nightmares after viewing brief 10 and 15 second station promotions that show violent or horrific images advertising a program that will be aired much later in the evening.

In other words, the violent program may be aired at 11:00 p.m. or at 1:00 a.m. but the promotion, often filled with the most violent or horrific image in the film, is shown at 3:00 p.m. when children are viewing something else entirely, perhaps something that their parents may very much have wanted them to view. In other words, no one can be sure nowadays that their child is not soon going to be exposed involuntarily to something frightening or disturbing on television.

This matter of involuntary exposure has not been given enough attention. It is not infrequently the case that adolescent boys and girls are exposed to extremely violent and horrific images in television and film that they would rather have not seen. In fact, it is the habit of some adolescent boys to purposely invite girls on dates to see horror movies that the girl is likely to have strong reactions to and that will lead her to seek the boy's comfort. The boy can then put his arm around the girl and play the macho protector. A teenage girl on a date, then, may be something of a captive viewer and may not recognize how she is being manipulated. With the advent of cable and VCRs, more and more adolescents now also watch these horribly violent films at home on television.

Young and adolescent boys also may expose themselves less than willingly to violent material in the cinema or on home video in modern rites of passage into some distorted sense of what manhood consists of. I refer to the frequent competition among boys to demonstrate that they are impervious to upset when viewing the most horrific and violent cinematic scenes. By withstanding the appearance of an emotional reaction one can appear manly. Hence, millions of boys, often in groups, regularly trek to the local theater or to a television set in some living room or den to view slasher movies, movies that blatantly exploit women and their bodies, movies filled with chain saws, guns, knives, machetes, and karate blows.

I am convinced that this business of trying to not react to violent or disgusting images helps train young people to turn themselves off emotionally and to become disconnected from their feelings. It is not healthful. It may be adaptive but it is not good for young people, or any people, to regularly expose themselves to frightening images and then try to force themselves not to feel because the feelings are too frightening or because it would be unmanly to leave the theater, cry, or cringe.

Another byproduct of violence in television and film results from the strong connection between violence in TV and crime programs. I taught college level psychology courses to inmates in a maximum security federal prison some years ago. A substantial number of my students reported that they got ideas for their crimes from television and from films. This should not really surprise us. Most anyone, if asked, could probably describe five different strategies to rob a bank even though very few people have ever seen an actual bank robbery or participated in one. We know how to commit such crimes from watching television and film. Whether we will commit such crimes, the matter of willfullness, has little to do with television or film in my view, but if one is inclined to engage in crime, television and film depictions give criminals many ideas that they might otherwise not have and so, the media operate for the would be or hardened criminal as a graduate seminar in advanced criminal methods.

Let me now turn my attention to social science research on the topic at hand. I should note that I am trained in the use of quantitative methods and frequently use them in my own research.

Social scientists have made important contributions to the study of media and I believe we have an important role to play in the debate on televised violence and its relationship to real world violence. The problem is that behavioral scientists cannot conduct the perfect study, i.e., clone an individual or take identical twins, raise them in two separate environments identical in every respect except for the amount of violence viewed on television and then find out 20 years later who is more violent. Even with this fanciful study there is a problem because the twin who watches more violence is necessarily exposed less to other activities or to other forms of television and it would be difficult to say absolutely for certain that any greater violence as a teenager or adult was absolutely due to viewing television violence.

Social scientists have greater difficulty solving such riddles and predicting outcomes than chemists and physicists because the matters we are dealing with, I would argue, are, in some ways, more complex. There are often many more variables involved plus the matter under study has a mind of its own and may be aware that it is under study.

The lack of absolute certainty on the matter of the modeling effect of violence has nothing to do with the ability or intelligence of behavioral researchers. It has to do with the nature of the problem, the nature of the phenomena, and the practical and ethical limitations of social science methods as they currently exist. Perhaps someday there will be a way, although I doubt that I will see it in my lifetime. I might also add that federal funding for research on television effects has been meager for years.

Now, let's assume for a moment that some higher intelligence came to us and told us exactly how much real world violence is directly due to televised violence and let's assume that the figure is exactly ten percent. In other words, let's assume that ten percent of all murders would not have occurred were it not for TV. It is my position that if we then conducted social science research studies such as have been conducted over the last 30 years that the findings would look pretty much like the findings that we have at this juncture. What I am saying is that in all probability televised violence does contribute to real world violence but that it is an exceedingly difficult thing to prove.

But what concerns me most regarding the application of such research is that we have become a society that depends so much on the findings of science. Does this committee or does the U.S. Senate or do the American people really need us social scientists to tell them that certain kinds of viewing material are not in the best interests of their children or themselves? Must everything have a scientific answer? Would this committee need me or one of my colleagues to conduct a scientific study to show that young children ought not to be shown a graphic sexual assault or a story about the kidnapping of a child that ends with the child being brutally murdered? I think not. I think common sense would lead one to the conclusion that this was not appropriate viewing. But I think we have become so enamored of science that common sense too often goes by the boards. Common sense should tell us that young children should not be regularly exposed to graphic violence, particularly where it has been injected into a program for purely sensationalistic and commercial reasons.

I am simply arguing that our children should not be sold down the road to profit. And yet, daily and weekly on American television the best interests of our children are being sacrificed to profit. There is, for example, at present only one non-animated program for children on network television Saturday morning. Why? Because it is significantly cheaper for the networks to show children cheaply animated cartoons than to produce programs with real people in them. And how much violence is there in these programs? The Annenberg School's Cultural Indicators Project at the University of Pennsylvania calculates a 20 year average of 21 physically violent acts per hour on Saturday morning television.

Furthermore, so sophisticated and cynical have toy manufacturers and the producers of children's television shows become that no longer are children's shows developed and toys then made once the show becomes popular. Today, the toy is designed with a program in mind that will promote it through a form of free advertising.

In other words, we have allowed such complete freedom to the toy and television industries that relatively few if any programs are put on network TV now because someone ardently believes that children need to see a certain kind of program. Rather, most of the programs are there because they revolve around a particular product and because the network believes that the program will attract enough young viewers that advertising time can be sold at a price attractive to the network. For the most part the things sold to children in these ads include candy, gum, sugar coated cereals, and toys.

This is not to say that the networks have no standards regarding childrens' television. They do. And many of the people producing these programs try to inject positive values, but by and large for many hours each week both on Saturday morning and for the rest of the week, the children of our nation are exposed to information and entertainment whose primary goal is to hold their attention for ads rather than to enlighten them or to help them develop into productive, creative, and intelligent adults. The existence of such cynical exploitation of children for commercial purposes does not speak well for our society. What can we possibly be thinking as a nation that we allow such practices to continue unchecked?

I must add that the problem of substandard and violent programming for children is even a greater problem for the economically disadvantaged child because he or she may have less access to the less violent childrens' programming on cable or through video tapes that a more affluent parent might buy or rent for viewing at home.

There was a time not long ago in the previous century when the three primary forces of socialization in a child's life and the three primary sources of information about how best to live were the family, the church, and the school. In the early years of this century a major change came about. Between 1920 and 1929 the percentage of companies that retailed directly to individual consumers (rather than to other companies) increased, by one account, by a factor of nine. That is, nine times as many companies had direct business transactions with the public in 1929 than in 1920.

With this direct relationship came the rise of modern marketing. And so a fourth primary source of information about how best to live arose in the early years of this century, has since then flourished, and remains with us today. That fourth source is the corporate sector. Today we are told how best to live, not only by our families, our churches, and our schools but also by the mass media and the major companies that sponsor our mass media. In my view, and in the view of many of my colleagues, the comparative influence of the traditional sources has been diminished.

These days, people worry about America losing its competitive edge. They wonder what has happened to American ingenuity and creativity. Well, there are obviously many explanations. One of them, and I want to be clear that it is only one of them, is that we spend enormous percentages of our lives watching television, and watching television that has little to do with the long term interests of the individual or society.

At the same time, we have, through advertising and through the commercial mass media, so extolled the virtues of consumption and materialism that all too many of our people have their attention focused on money.

We must ask ourselves with regard to S. 844, what the television industry should be doing fundamentally? Is it truly serving the public interest or is it largely serving its own interests and the interests of large corporations?

We must ask ourselves why so much violence is on television. How it is that the average child reportedly sees hundreds of acts of physical violence on television every week. We must also ask ourselves why there is so much cheap sexual titillation on television. The answer, of course, is that television is, by and large, a commercial medium in this country and, in my opinion, much of what is wrong with American television can be traced to the fact that it is commercial.

The larger the audience, or the larger the audience with the right demographics, the larger the advertising revenues and the larger the profits. The bottom line is that television programs are produced so that people will see advertisements.

We have come to completely accept advertising in our mass media. To illustrate how differently some people thought about this issue not so many years ago, then Secretary of Commerce Herbert Hoover in the middle of the struggle over the new medium of radio stated:

> "It is inconceivable that we should allow so great a possibility for service, for news, for entertainment, and for vital commercial purposes to be drowned in advertising chatter."

Nowadays, there is fierce competition between the networks for advertising dollars. But rather than breeding a better product, competition in television often breeds a poorer product and a product not in the public interest. Frequent violence and sexual titillation are just two examples. The enormous popularity of VCRs can be explained, in part, by a public exasperated and angry with the major networks' penchant for counter programming. On the rare night that one of the networks chooses to show a critically acclaimed film such as "Chariots of Fire," another network will try to sabotage their effort by counter programming with "Passage to India." The public's interests are not served in counter programming. Network and commercial interests are served.

To my mind, the industry has in some ways brought on itself the problem of people now using their VCRs to speed search through ads. In my opinion, the rush to own VCRs would have been slightly less if in the past the networks had better served the public interest. By counter programming and interrupting programs with more and more ads, they have increased the interest in the VCR technology and now the public has rightfully taken some greater control into its own hands.

Perhaps the networks could still consider putting their ads at the top and end of a program as is done in many other countries. The first network with quality programming to do so might just surprise the entire industry by the resulting ratings and positive public sentiment engendered toward that network. In all likelihood, no network would unilaterally do such a thing because advertisers will assume, perhaps incorrectly, that fewer people will see their ads if placed on that network.

The issue of competition brings us to the bill under consideration. The problem of whether one television network will unilaterally reduce its violent programming by some substantial figure is paralleled by the unwillingness of either superpower to reduce its arms unilaterally. Each is frightened of losing out to the other, of falling behind. Each is engaged in an unfortunate competitive battle. To make any progress, television executives need to meet together and that is what the bill permits.

The industry spokespeople are in opposition to the bill and say that there is no problem. The television business is like any other business. How often has any industry come before Congress and openly admitted that there products were substandard or potentially dangerous? The industry would have us believe that the situation is well in hand.

I believe the wrestling program I described earlier clearly demonstrates that the problem is not at all well in hand. Still, I am generally impressed by the written broadcast standards of all three networks. So while extremely graphic and gratituous violence is infrequently shown on the networks it is still shown on independent stations and on cable. But, while the violence is sanitized for network broadcasting it is still ubiquitous. Of course, there is some controversy whether sanitized, unrealistic violence is really better in the long run than realistic violence. Real violence is very ugly but most violence created by the networks is not. Some argue that this trivializes the reality and import of violence. But more importantly, network standards have not effectively reduced the frequency of violence. There are roughly five physically violent acts per hour in prime time television according to the Annenberg School studies and this average has changed very little over the past 20 years.

While I am discussing the nature and frequency of violence in television I must in fairness compare television to contemporary movies which are far more violent than television. Again, this is a matter of producing a product for what producers conceive of as a competitive marketplace. The notion among some movie producers is that in order to attract children and adolescents to the theaters they must outdo the last horribly violent film lest children be disappointed. If anything, many of the movies made for television are of a higher quality and are certainly more wholesome than many movies made currently in theatrical release. Furthermore, the movie audience is growing younger and younger and more and more exploitive films are made for young people's consumption. Only about 12 percent of movie tickets are now purchased by people over age 45. Nowadays, whole movies are developed and conceived from the beginning to incorporate incredible amounts of violence.

The application of broadcast standards helps point up the complexity of the issue at hand. Network standards, as have been previously testified, are applied with great frequency through almost all phases of production and much material that some producers would like to show is not shown. Ironically, many of the same people who say there is too much violence on television are the same people who rail against the networks when they do censor material. Many of us who are movie buffs strenuously object to a movie having any scene removed. We believe that we should be permitted to see a movie on television in its entirety and as it was intended to be seen and yet there are many scenes in many contemporary movies that should not be made readily available to young children. And so the networks censor movies.

At the same time writers, directors, and producers in television are often frustrated and angered by network standards that are either out of date or applied capriciously. In many ways the loosening of standards has been a good thing. Jack Paar got in hot water not so many years ago for referring to the bathroom as the W.C. Only 22 years ago Rob and Laura Petrie slept in separate beds on "The Dick Van Dyke Show." Until relatively recently, the word "pregnant" could not be used on television.

While there may be problems in the application of broadcast standards, it is still not responsible for the industry to say that they only give people what they want. Many times, the public does not know what it wants until it gets it. In truth, if you ask people in line at a movie theater what they would want to see, most people can only respond in terms of what they already know and so they say, "I'd like to see something like Jaws" or "How about another 'Star Wars' movie?" Very few people would say that they wanted to see a movie about the reality of Vietnam and very few white people, if interviewed, would have said that they wanted to see a situation comedy about a Black family.

Fortunately, many people in Hollywood still make films and television shows that they believe in. Unfortunately, too many executives and producers choose to take the conservative line and sound like the people standing in the movie line saying, "Give me something like 'Animal House', that's obviously what people want to see" or "Black sit-coms are what people want to see, give me another 'Bill Cosby Show.'" And so the years after "Animal House" and "Bill Cosby" became hits, the networks put on a number of copycat shows all of which quickly failed because some people in the industry fail to understand that there were unique characteristics in the writing, directing, and casting in these works that had everything to do with their success.

Too many safe and conservative decisions are made at the networks about what to buy and put on the air. There is much imitation and cloning. This is because the television industry is first and foremost a business like any other, a business with some individuals who are afraid that they will lose their jobs or not be successful if they take a gamble on a new show or movie that does not fit neatly into an exising genre or progam type. One is not fired for not producing "The Cosby Show." One may be fired for producing a show that is a flop. And so we get many predictable cop, detective, spy, doctor, lawyer, and cowboy shows year after year.

It has been my view for some years now that if the networks could decide that they would not aim for maximum profit but more frequently aim for maximum quality, that they would still get roughly the same ratings and the public would be far better off.

After all, in general the number of persons watching television on any given night is pretty much the same for that night, week in and week out. The patterns of everyday life have a great deal to do with who is watching television at what hour of the day and on which day of the week. In this sense, television programs are not unlike many other product categories. A certain amount of laundry detergent is bought and sold in the United States each year. The problem for soap manufacturers is whether people are going to buy one brand or another. The same goes for television. The problem for television networks and stations is what proportion of the television sets in operation at any given time are tuned to them.

If the networks could only accept that instead of an audience of 25 million that an audience of 20 million was a success in prime time and if they could only shoot for or accept 90 percent of current profits, it is my opinion that American television would improve considerably and the amount of violence would be reduced. The profits might actually increase.

Shakespeare would have given anything for an audience of 20 million. To provide some sense of just how large network audiences are, consider that if a Shakespeare play were to be performed for an audience of 1000 people in a large theater, it would have to play every day for over 80 years before an audience of 30 million persons was reached. There are many television programs that reach such an audience each and every week of the year. With such enormous audiences come enormous responsiblities and I believe that the industry has not sufficiently met its responsibilities to the public interest.

The networks, independent stations, and local affiliates and cable have put profit before the public for too long. It is for this reason that I am supportive of the spirit of this bill as long as it is clear that no one is being compelled to do anything but only that the industry is being permitted to do something if it so wishes. No one has to do anything.

At the same time I question how much good the bill can do other than to once again put the industry on warning. But even this may be salutary as are these hearings. Completely unchecked by public outcry and by governmental threat, I'm reasonably sure that American television would be less responsible than it is. I also wonder if Mr. Erwin Griswold's letter to Mr. Simon dated August 12, 1986 does not deserve further consideration. In that letter, Mr. Griswold wonders if the FCC might not be able to authorize meetings that might have the same result as intended by S. 844.

But the issue is far larger than violence and I cannot in good conscience confine my remarks to television violence. We have many vexing problems in our society today. Some of the answer--not all of the answer let me be clear--but some of the answer, lies with the nature of our commerical mass media and I include movies, radio, and print media in this.

Every few minutes television programs are interrupted and we are told that we must own something or have some service in order to be happy. We must have fast, fast relief from a wide number of problems some of which didn't even exist in the public mind before the rise of the mass media. I include in this bad breath, body odor, the blahs, the heartbreak of psoraisis, and perhaps even static cling and ring around the collar.

The market and advertising sectors have continually thought up ways to create new demand by making the public believe that some new need had to be filled or that they must own the latest fashion or product.

People wonder why there is a widespread drug problem in our society and fail to see that advertisers have been telling us throughout the entire century that one nostrum of another would make us feel better. According to advertising, we should never feel bad.

People wonder why anorexia and bulimia now afflict a frightingly high percentage of young women in our culture and fail to consider that advertising has been telling us for decades to eat on the one hand and that women, in particular, must be thin in order to be attractive and happy.

People wonder why the teenage suicide rate has increased so dramatically in recent years (according to a 1981 study by Yankelovich, white male teenage suicides have increased 300 percent since 1951) and fail to see that our culture holds out two primary criteria for success: fortune and fame. These are largely empty values, yet they are the values communicated incessantly by television and the mass media and many adolescents question whether they wish to take part in such a society or whether they can take part successfully. Young people are always searching for something better--something they can look up to and admire--but the culture as it is communicated through the mass media and advertising often fails to give them something bigger and better to strive for than to become consumers.

Film and television can be artful, of that there can be no question. Each medium can elevate and enrich and inform but all too frequently television and film do not do this. Grant Tinker, the former president of MTM, NBC, and now president of his own production company told Todd Gitlin of U.C. Berkeley a few years ago that "I think what is probably the biggest sin of the medium as it exists is that so little sticks to your ribs, that so much effort and technology goes into--what? It's like human elimination. It's just waste."

Not only does the most respected person in television today hold to this view but so do many others. My research has recently taken me to Los Angeles where I have been conducting interviews with writers, directors, producers, editors, actors, and network executives.

By and large the people creating American television are exceedingly bright and well educated. Many people working in television are also exceedingly thoughtful and pleasant. Almost all work exceedingly hard under unrelenting deadline pressures. Many put in 60 and 80 hour weeks. Many entered the medium because of a heightened aesthetic sense and love of film or television. Many are quite literate and cultured. It is interesting to note that many do not watch television for entertainment. Very little of what is currently offered appeals to them.

Many of them are very concerned about the work that they do, its quality, and its impact on society. Many are extremely critical of television. The reason for this is that they know first hand why programs sometimes turn out badly. They know that the product could be better.

I have talked with television practitioners who limit their own children's viewing. They, too, are concerned about violence, sex, and commercial values being promulgated by the medium they work in. Many of the people working in television today would welcome a different, less competitive climate and would be supportive of a concerted industry wide effort to improve the quality of programs. Senator Simon reported previously, for example, that the Screen Actors Guild has adopted a resolution critical of the amount of television violence. Many television practitioners are also quite concerned about the long term implications of the recent buy-outs and takeovers of each of the networks and worry that bottom line commercial pressures will become even greater.

Already there exists in Los Angeles, The Caucus for Producers, Writers, and Directors made up of over 200 of television's leading creators. They are interested in elevating the quality of television programming and I recommend that their list of aims and objectives be examined by the committee. The very fact of the Caucus' existence further documents the genuine concerns of those who toil in television. Still, The Caucus does not include network, cable, or station executives in its membership and S. 844 does address distributors and not producers.

One of my students recently interviewed for an internship at one of the networks. He came back and asked me how I could be critical of television when the people he met at the network were so nice and bright. I wasn't surprised. I told him that they were just as he described. The problem with American television is that these nice and intelligent and well meaning people must perform certain roles because of the structure and aim of the industry which is, at base, to attract and hold the largest audiences possible. It means that writers are sometimes told by network and studio executives to inject more action or sex in their scripts. And so the writer delivers what was ordered or he or she will not be asked to write for that network or studio again.

So what can be done? I support the intent of the bill and believe that it could have positive results. But I think it does not address the real problem, but I suppose that is the nature of law. I would rather see a bill, although I suspect it would pose many additional problems, that simply permitted television and movie executives to meet to discuss the larger underlying problem of competition for audiences and to see if they might not be able to agree on industry principles that would help reduce violence as well as the many other excesses that result from commercial competition in television and film. Industry leaders ought to meet to consider ways they might work together to better serve the public interest.

Ideally, the industry would police itself effectively but as I have stated, I believe the industry has not met its responsibility. By bringing executives together to think about issues beyond violence, perhaps something bigger and better might result. Let me quote a statement made by Garry Marshall in a book by Horace Newcomb and Robert Alley entitled The Producers' Medium. Garry Marshall was the creator or executive producer of such programs as "The Odd Couple," "Happy Days," "Laverne and Shirley," and "Mork and Mindy."

This is what Marshall told Newcomb and Alley:

"Well, how do we fix the whole thing?. . . I'll give you my theory, which I told PBS. Suddenly it [football] got immensely competitive because it suddenly became big money. Who's got the biggest crowd and television rights and all that? As soon as it got intensely competitive, they made a Commissioner of Football a man who oversees it all, and 'for the good of the game' became a philosophy.

"In television we don't have anybody up there saying 'for the good of the game.' It's all fragmented. And it's not healthy when the competition gets so intense with nobody with an overview. Television needs a commissioner, not an FCC guy who doesn't know what's happening, because he doesn't know the business. They got a sports man to do sports. They need a television man to say something is for the good of television, so that there is a rule. There are no rules now, and no rules, in intense competition is not healthy. . . I mean even the advertising community--who's worse than the advertising community?--they have an advertising council. . . . Nobody in television states rules. We haven't any council or commissioner. All TV cares about is how many minutes of commercials you get on.

I mean, all that is important, but we're supposed to live in a world of ethics. Somebody's got to say you can't move a show on one night and throw it up against another. . . . In the AFL and NFL, football leagues had the sense not to run the two games at the same hour. . . . We need a commissioner."

May I add that I only wish Mr. Marshall had said that a television woman might serve as commissioner.

At the same time there are other things that Congress can do to ameliorate the problems associated with contemporary television and which are, in my view, more clearly within its purview. I have three suggestions.

First, Congress could substantially increase the budget for the Corporation for Public Broadcasting enabling it to produce even better programs and more homegrown programs rather than so frequenty depending on British television. In recent years under the current administration, CPB has been cut back and has itself had to resort to advertising.

In fact, I would argue for the development of a second government funded public television network. The Congressional appropriation for CPB in 1986 was $160 million dollars, over seventeen hundred times smaller than the 281 billion dollars appropriated to the Department of Defense. Put another way, Congress could create an entire second high quality public broadcasting system for what the Defense Department spends in less than five hours.

This severe comparison points up just how disordered our national priorities are. Many free countries have more than one government funded television network and I can see little harm in greater funding for CPB as it currently exists or in funding for a second network as well.

A second solution lies in education, although this is something that might also be addressed by state governments. Congress could provide the Department of Education with funds for a comprehensive study and plan for implementation for a curricula in media studies for all grades in our public schools. In brief, our schools need to begin to teach children how to analyze all media (television, film, radio, newspapers, and magazines). Many of the same topics covered in the study of literature, e.g., foreshadowing, symbolism, character development, and plot can also be taught using television programs and movies. I do not mean for a minute that the classics should not still be taught or that we should pander to our children, but I do think great literature can be compared to and taught along side popular storytelling in the mass media. This is one of the best ways to engender students' respect for the depth and range in great literature.

If most children are going to spend two to fours hours every day watching television and two to four hours every day as adults watching television than I think we owe it to our children and to our society to help them to better understand and appreciate what they are viewing and I believe that the schools must begin to play a greater role in this.

A number of video curricula are now in place around the country. It would be in the long term interests of our nation that our people become more critical and aware of how the media operate. A populace that is intelligent about mass mediated messages is less likely to be manipulated by the media and more likely to demand higher quality and enriching programming.

Third, and finally, I would recommend significantly greater funding for research into the psychological and sociological effects of television and other media. I concur with the American Medical Association's statement on televised violence that appeared in the proceedings from last year's hearings that called for full federal funding for studies on the effects of television through the National Institute of Mental Health. Only in 1972 was even as much as one million dollars allocated by the Federal government to the study of television. By comparison, the 1986 appropriation to the National Cancer Institute was 1.2 billion dollars. In subsequent years the research funding for television studies has largely dried up. Even funding at one million dollars would cost the government only 1.8 minutes of the 1986 DOD budget.

I have tried to demonstrate that the problem of violence on television extends beyond the issue of whether TV violence breeds actual violence in the society. I have also argued that violence on television is one of the many negative outcomes of commercial competition in the television and film industries. I hope that my statements have been of value to the committee.

Senator SIMON. Dr. Beard.

STATEMENT OF LILLIAN M. BEARD

Dr. BEARD. Good morning, Senator, and distinguished colleagues. I am aware of our time restraints, and I will honor them.

I am Lillian Beard, pediatrician. It is with great pleasure for me and an honor to the Academy and as Chairman, section on pediatrics of the National Medical Association, to address you on the subject of television violence.

Two observations indicate that children learn readily and rapidly from television. First, thousands of school-age American children have learned to spell "relief," "R-o-l-a-i-d-s." Second, next to Santa Claus, Ronald McDonald is the man most widely recognized by children in the United States.

Children also learn about violence from television. Violence is defined as "physical force exerted for the purpose of violating, damaging or abusing." Televised episodes that meet this criterion have doubled since 1980, and now occur approximately 13 times per hour during prime time television. Televised violence averages over 20 episodes an hour during cartoons and in some cases occurs over 50 times an hour.

In recent years, violent programming for children has increased in parallel with the frequency of toy-based programs, often called "program-length commercials". These programs are based on toys and are designed to promote sales rather than to entertain or educate children.

Over half of the 20 best-selling toys in the United States have violent themes and programs that promote them. Programs such as GI Joe and Rambo specifically glorify war, and research shows that these two program-length commercials depict over 75 violent episodes per hour.

Because the average child in the United States watches from 20 to 25 hours of television a week, even a conservative estimate suggests that an average American child sees over 12,000 violent acts each year on television.

If children can learn about Rolaids and Ronald McDonald from commercials that they see three or four times a day, they can surely learn from violence that they see over 200 times a day.

Therefore, it is hardly surprising that 3,000 published articles, several Senate hearings, the 1972 Surgeon General's Report, and the 1982 Report of the National Institute of Mental Health have indicated a causal linkage between televised violence and aggressive or violent behavior in children and adolescents.

The effects of such repeated exposure to violence affects the behavior of children in several important ways.

First, children and adolescents imitate violence on television. Following a televised version of the New Bedford pool hall rape, a 12 year-old boy sexually assaulted a 10 year-old girl on a pool table.

Recent data published in the New England Journal of Medicine clearly shows that graphic suicide on television is followed by a rise in adolescent suicide rates.

Second, children identify with televised characters. Because the "good guys" are as responsible for at least as much violence as the "bad guys", the use of violence to attain socially approved goals is implicitly endorsed.

Third, the violence on television is clean. The protracted hospitalization, suffering, rehabilitation and long-term physical and emotional consequences are rarely shown. Televised violence therefore appears to offer an acceptable and rapid means of conflict resolution without negative consequences.

Fourth, repeated exposure to violence creates an indifference to its practice.

The Academy of Pediatrics has met with television writers, producers, directors and executives, many of whom are also parents. Almost without exception, they are concerned about the effects of television on children and adolescents. However, television is a business. Children and adults are attracted by action and suspense. That which attracts viewers also attracts sponsors.

Since the National Radio Act of 1927, the airways have been considered a public resource to be used to serve the public interest. The American Academy of Pediatrics contends that violence television serves sponsors, not the children of this country. Violent television is not in the public interest.

An equal responsibility for what children see on television rests with parents. We believe that parents must monitor the programs their children see; that parents should watch television with their children and help them interpret what they observe.

We believe further that visions of life on television are poor substitutes for direct experience, and that television time should be reduced.

Nonetheless, the epidemic of toy-based programs, otherwise known as program-length commercials, and the widespread violence that occurs in both cartoons and prime time programming offers even the most responsible parent almost no alternative.

The American Academy of Pediatrics strongly supports Senator Simon's bill, Senate Bill 844. We believe that an exclusive focus on self-regulation by the television industry will not resolve the problems of televised violence. The Academy also applauds Senator Simon's efforts to bring this issue to the attention of the public by holding these hearings today as well as those of last June.

Unfortunately, during the year that has elapsed, television violence has increased, not decreased, and we are on the verge of yet another adverse development in television violence. During this coming Christmas holiday season for the first time, we will see the aggressive marketing of television-activated toys. These are toys activated by an inaudible signal during a program that promotes the toy. Such toys have been called "interactive". "Interactive" is misleading, because the only interaction that occurs is between the toy and the TV set. Besides the fact that such toys will increase the already considerable passivity with which children view television, at least one of this first generation of interactive toys may further increase violent and aggressive behavior in children by allowing them to engage in gun fights with televised characters.

This latest development again demonstrates the critical need for timely action on Senator Simon's legislation.

In conclusion, the American Academy of Pediatrics and the National Medical Association believe that it is essential to reduce the exposure of American children to televised violence.

The solution requires three elements. First, parents must monitor the television programs their children view. Second, broadcasters must offer choices that include nonviolent programming that is of educational and instructional benefit to children and adolescents. Third, manufacturers and advertisers of children's products should be informed of the adverse effects of television violence on children.

Thank you.

[Prepared statement follows:]

American Academy of Pediatrics

TESTIMONY

BEFORE THE

ANTITRUST SUBCOMMITTEE

OF THE

SENATE JUDICIARY COMMITTEE

ON

TELEVISION VIOLENCE

PRESENTED BY

Lillian Beard, M.D., F.A.A.P.

June 25, 1987

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My name is Lillian Beard. I am a pediatrician. It is a great pleasure for me, and an honor to the Academy, to be invited to address you on the subject of television violence.

Two observations indicate that children learn readily from television. First, thousands of school-age American children have learned to spell relief R-O-L-A-I-D-S. Second, next to Santa Claus, Ronald McDonald is the man most widely recognized by children in the United States.

Children also learn about violence from television. Violence is defined as "physical force exerted for the purpose of violating, damaging or abusing." Televised episodes that meet this criterion have doubled since 1980, and now occur approximately 13 times per hour during prime time television. Televised violence averages over 20 episodes an hour during cartoons, and in some cases, occurs over 50 times per hour.

In recent years, violent programming for children has increased in parallel with the frequency of toy based programs, often called program length commercials. These programs are based on toys and are designed to promote sales rather than to entertain or educate children. Over half of the 20 best selling toys in the U.S. have violent themes and programs that promote them. Programs such as GI Joe and Rambo specifically glorify war, and research shows that these two program length commercials depict over 75 violent episodes per hour. Because the average child in the United States watches 20-25 hours of television a week, even a conservative estimate suggests that an average American child sees over 12,000 violent acts each year on television.

If children can learn about Rolaids and Ronald McDonald from commercials that they see 3 or 4 times a day, they surely can learn from violence that they see 200 times a day. Therefore, it is hardly surprising that three thousand published articles, several Senate hearings, the 1972 Surgeon General's Report, and the 1982 Report of the National Institute of Mental Health have indicated a causal linkage between televised violence and aggressive or violent behavior in children and adolescents.

The effects of such repeated exposure to violence affects the behavior of children in several important ways. First, children and adolescents imitate violence on television. Following a televised version of the New Bedford pool hall rape, a twelve year old boy sexually assaulted a ten year old girl on a pool table. Recent data published in the New England Journal of Medicine shows clearly that graphic suicide shown on television is followed by a rise in adolescent suicide rates. Second, children identify with televised characters. Because the "good guys" are responsible for at least as much violence as the "bad guys", the use of violence to attain socially approved goals is implicitly endorsed. Third, the violence on television is clean.

The protracted hospitalization, suffering, rehabilitation, and long term physical and emotional consequences are rarely shown. Televised violence therefore appears to offer an acceptable and rapid means of conflict resolution without negative consequences. Fourth, repeated exposure to violence creates an indifference to its practice.

The Academy of Pediatrics has met with television writers, producers, directors, and executives, many of whom are also parents. Almost without exception, they are concerned about the effects of television on children and adolescents.

However, television is a business. Children and adults are attracted by action and suspense. That which attracts viewers also attracts sponsors. Since the National Radio Act of 1927, the airwaves have been considered a public resource, to be used to serve the public interest. The American Academy of Pediatrics contends that violent television serves sponsors, not the children of this country. Violent television is not in the public interest.

An equal responsibility for what children see on television rests with parents. We believe that parents must monitor the programs their children see, that parents should watch television with their children, and help them interpret what they observe. We believe further that visions of life on television are a poor substitute for direct experience and that television time should be reduced. Nonetheless, the epidemic of toy based programs, otherwise known as program length commercials, and the widespread violence that occurs in both cartoons and prime time programming offers even the most responsible parent almost no alternative.

The Academy of Pediatrics strongly supports Senator Simon's proposal (S.844). We believe that an exclusive focus on self regulation by the television industry will not resolve the problem of televised violence.

The Academy also applauds Senator Simon's efforts to bring this issue to the attention of the public by holding these hearings today, as well as those last June. Unfortunately during the year that has elapsed, television violence has increased, not decreased, and we are on the verge of yet another adverse development in televised violence. During this holiday season, for the first time, we will see the aggressive marketing of "television activated toys." These are toys activated by an inaudible signal during a program that promotes the toy. Such toys have been called "interactive." "Interactive" is misleading because the only interaction that occurs is between the toy and the TV set. Besides the fact that such toys will increase the already considerable passivity with which children view television, at least one of this first generation of interactive toys may further increase violent and aggressive behavior in children by allowing them to engage in gunfights with televised characters. This latest development again demonstrates the critical need for timely action on Senator Simon's legislation.

In conclusion, the American Academy of Pediatrics believes that it is essential to reduce the exposure of American children to televised violence. The solution requires three elements. First, parents must monitor the television programs their children view. Second, broadcasters must offer choices that include nonviolent programming that is of educational and instructional benefit to children and adolescents. Third, manufacturers and advertisers of children's products should be informed of the adverse effects of television violence on children.

# # #

Senator **Simon**. We thank you, Dr. Beard. If I may just underscore two sentences of your testimony, "The American Academy of Pediatrics contends that violent television serves sponsors, not the children of this country," and you point out that television violence is on the increase. "Televised episodes that meet this criterion of violence have doubled since 1980, and now occur approximately 13 times per hour during prime time television."

I appreciate all of your testimony. Just so there is no mistake on the part of anyone, you have the chance to vote yes or no on this legislation.

Dr. Rubinstein, how do you vote?

Dr. **Rubinstein**. Yes.

Senator **Simon**. Dr. Huston.

Dr. **Huston**. I vote yes.

Senator **Simon**. Professor Kubey.

Dr. **Kubey**. I vote yes, but I would prefer to see a bill that was even farther-reaching in terms of permitting people in the industry to talk about issues beyond violence, because there is more that competitive practices are bringing about that I think is negative than just purely violence.

Senator **Simon**. Dr. Beard.

Dr. **Beard**. I vote yes.

Senator **Simon**. What about those who simply say, if I may use the phrase, that marketplace checks and balances can solve the problem for us?

Dr. Rubinstein.

Dr. **Rubinstein**. I do not think that will work, and I think an even more important issue is that, as bright and as committed as the network executives are about their business, the manner in which they develop and present programs for children and about children indicates a very considerable ignorance about child psychology, child development, and what influences children.

I can give you one example. They keep on saying their programs are actually moral, because in the end, the bad guy gets caught, and the good guy wins. Well, for children under the age of eight, the relationship that they see between the act and its consequence is not very good; they see 20 minutes of action which was pretty nasty and violent and then the resolution, which is presumably that the bad guy loses. The networks' saying that is an indication that this is a pro-social program is lost on children of that age. The executives just do not understand that facet of child psychology.

Senator **Simon**. And if I can just add, the one thing that is different in entertainment television over news television is that in entertainment television, the good guys win; the good guys are not the people who get hurt. In violence on news, which obviously is a very different thing, there we see the grim realities of violence.

Dr. Huston.

Dr. **Huston**. Well, we have 40 years of history to show that the marketplace does not produce a reduction in violence. In fact in the last 7 or 8 years when there has been a great reduction in the regulatory efforts of the Federal Communication Commission and other government agencies, we have had increases in violence and serious commercial exploitation of children in the program-length commercials, which are virtually all the new programs for children that have been produced on commercial television for the last 3 or 4 years.

Senator SIMON. Professor Kubey.

Professor KUBEY. By and large, the marketplace brings about the kinds of things we are criticizing here today. If you look at the movie industry, for example, there are people who consciously decide that they must outdo the last violent, horrific movie lest they have children leaving the theater saying, "Gee, it did not scare me as much as the one where they ripped the heart out of the woman. They did not do anything but rip her arm off. I mean, what kind of movie is that?" So there are those kinds of marketplace forces working.

What is surprising is that in the past, parents' phone calls and letters to stations, I think, had more effect. I am amazed, for instance, that the wrestling program that I described to you has not been yanked from the air. I first saw it a number of months ago on Channel 11 in the New York area, and I could not believe it has survived since then—I mean, it is so gratuitous and so offensive and so sexist that I am amazed that there have not been enough calls to pressure that station to take it off the air.

The advertisers in the industry are responsive; they do not like hearing complaints. It is a very conservative industry, by and large. But I am concerned that more parents are not more outraged and are not going and taking some kind of action, because the networks will respond to some degree when people do take action.

Senator SIMON. Dr. Beard.

Dr. BEARD. Obviously, the market is thriving, so therefore the marketplace is not the appropriate setting for checks and balances. When I say the market is thriving, we note that the more violence that the public is shown, the more it seems to crave or demand it. You can tell by the types of programming that will be not only be renewed for the next season, but you can tell by which programs are selected for re-runs during the summer months.

Without calling specific programs, several of them are also on the affiliate or on the network which our earlier speaker represents.

So I think that without making alternative programming available, it is a thriving market. This marketplace is not appropriate for checks and balances.

Senator SIMON. We thank you very, very much for your testimony and for your leadership.

Our final panel consists of Professor Elmer Gertz, of the John Marshall Law School; Barry Lynn, of the American Civil Liberties Union; Professor David Strauss, the University of Chicago Law School, and Professor Gene Nichol, of Marshall-Wythe School of Law, College of William and Mary.

Again, I am going to have to impose that 5-minute limitation on everyone. I am pleased to have all of you here. Let me pay a special welcome to Elmer Gertz, who has been a leader in the civil liberties field in this Nation for a long, long time. We are honored to have you here.

STATEMENT OF A PANEL INCLUDING: PROFESSOR ELMER GERTZ, THE JOHN MARSHALL LAW SCHOOL; BARRY LYNN, LEGISLATIVE COUNSEL, AMERICAN CIVIL LIBERTIES UNION; PROFESSOR DAVID A. STRAUSS, UNIVERSITY OF CHICAGO LAW SCHOOL; AND PROFESSOR GENE NICHOL, MARSHALL-WYTHE SCHOOL OF LAW, COLLEGE OF WILLIAM AND MARY

Dr. **Gertz.** Thank you, Senator.

I was chairman of the Bill of Rights Committee at the Illinois Constitutional Convention; chairman of the section Council on Individual Rights and Responsibilities of the Illinois State Bar Association; chairman of the Civil Rights Committee of the Chicago Bar Association, and president of the First Amendment Lawyers' Association.

I state these things to evidence that I am devoted to constitutional rights and responsibilities.

At the same time, I am not deaf, dumb and blind. It seems to me very obvious that there is an extraordinary amount of violence on television and that some of it at least has dire results so far as the young and susceptible are concerned.

For that reason, I am strongly in favor of the bill proposed by you, Senator Simon.

At the same time, I recognize that it is not the entire answer; much more has to be done. But at least it is a start.

I have filed a statement, and I would like to emphasize only a few points from it.

Senator **Simon.** That's fine, and the full statements will be entered in the record.

Dr. **Gertz.** On its face, the 1st amendment is absolute in its prohibition of limitations on the freedom of speech and of the press. But we have known from the very beginning that there are certain areas in which, in fact and in law, limitations can be placed upon the basic constitutional right.

Defamation, certain invasions of privacy, obscenity, fraud and deceit, words coupled with conduct calculated to create dangers to the national security or public safety or health, these are among the areas in which it is readily recognized that restrictions may be imposed.

In our day, there are certain menaces to the life of the community that cause us to ask what we can do about them. They include crime, violence, delinquency, drugs, dread diseases such as AIDS.

I think it is clear if we study the matter, not simply as a professor of law, but as citizens, that from the very beginning we have recognized certain historical limitations and certain limitations by reason of necessity. We cannot be so purist that we say that there is a problem, but we can do nothing about it because of constitutional limitations.

I suggest that there is no problem the solution to which is precluded by any narrow construction of the law.

Now, as I see it, the proposed legislation does not set up or encourage any system of censorship which would be forbidden by a line of cases. It is purely voluntary in nature. It simply would encourage the industry to act in the public interest, and there is absolutely no compulsion about it.

I would suggest that you examine the leading case of *Young* v. *American Mini-Theatres,* which I cite in my statement and from which I quote.

As I see it, the proposed law creates a forum for the exchange of information and ideas, and each network and station would be free to act or not act as it chose.

It seems to me also that with respect to the laws with respect to competition that the Sherman Act, the Clayton Act, and other acts have always been interpreted by the Supreme Court and other courts with the fiat that reasonableness must be applied to them. They are not so absolute and so strict that true necessity is precluded.

What we have now is a kind of Gresham's law in operation. The worst programs drive out the best, and so we have the kind of horrible programming that we see on the air.

Now, what this legislation proposed by you would do would be at least to give an opportunity for new looks at the situation in order to arrive at guidelines, to arrive at guidance of some sort because, before the industry is the peril that the public may go too far, just as we go too far in our criminal justice system at times, and become punitive rather than preventive. I think that unless there is some framework such as that suggested by you, we are likely to have much worse arrangements proposed, legislatively and otherwise.

Senator SIMON. We thank you very, very much.

[Prepared statement and response to questions follow:]

WHY I FAVOR SENATOR PAUL SIMON'S PROPOSED LAW

By ELMER GERTZ

On its face, the First Amendment is absolute in its prohibition of limitations on the freedom of speech and of the press, and some have interpreted it in that light. But we have known from the very beginning that there are certain areas in which, in fact and in law, limitations can be placed upon the basic constitutional right. Defamation, certain invasions of privacy, obscenity, fraud and deceit, words coupled with conduct calculated to create dangers to the national security or public safety or health, these are among the areas in which it is readily recognized that restrictions may be imposed.

In our day there are certain menaces to the life of the community that cause us to ask what we can do about them. They include crime, violence, delinquency, drugs, dread diseases such as AIDS.

Some are so purist in their views of freedom of expression that they are impractical and unrealistic in what they would advocate. They would favor a policy of no limitations whatsoever even if the result might be fatal to civilized society.

In another area of the law -- the antitrust laws -- they would apply the Congressional restrictions in such fashion as to interfere with the orderly, common sense management of public order and private enterprise. This would be true especially if questions of freedom of expression are also involved, as in the proposed legislation to sanction highly circumscribed exemptions in the law that would permit the television industry to carry on programming cooperatively, on a completely voluntary basis, that would inhibit the showing of excessive violence, the end result of which would lead to juvenile delinquency, anti-social conduct and crime. They would simply exchange ideas, consult and, if they chose to do so, individually and voluntarily, curtail the volume and nature of the violence portrayed on the nation's television screens.

It is quite possible that this could be done without any legal exemption from the anti-trust laws. After all, from the very beginning the courts, including the Supreme Court, have proscribed only unreasonable trade restrictions, rather than all restraints, however minuscule and unintended.

But the television industry is conscious that what is innocent and public spirited may be misinterpreted and lead to civil and criminal sanctions. So statutory protection is sought, and the proposed legislation accomplishes this.

The proposed legislation does not set up or encourage any system of censorship which would be forbidden by a line of cases, including Bantam Books v. Sullivan, 272 U.S. 58 (1963). Nobody in the industry would be forbidden to program as he sees fit, however wrong or outrageous. He would simply be encouraged to act in the public interest in this area, because it would be likely that his competitors would do likewise.

Pertinent to the present situation is what Justice Stevens, writing for the Supreme Court, said in Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976):

> The question whether speech is, or is not, protected by the First Amendment often depends on the content of the speech. Thus, the line between permissible advocacy and impermissible incitation to crime or violence depends, not merely on the setting in which the speech occurs, but also on exactly what the speaker had to say. Similarly, it is the content of the utterance that determines whether it is a protected epithet or an unprotected "fighting comment." And in time of war "the publication of the sailing of transports or the number and regulation of troops may unquestionably be restrained," . . . although publication of news stories with a different content would be protected.
>
> Even within the area of protected speech, a difference in content may require a different governmental response . . .

The new law, in effect, would create a forum for the exchange of information and ideas, and each network and station would be free to act, or not act, as it chose.

We function now under a kind of Gresham's law. The worst programs drive out the best, with the dire results we see today. We ought not to give up the battle for peace and decency simply because of a mistaken fear that freedom will be curtailed. We have always curtailed freedom to commit crime or to engage in anti-social conduct. The proposed legislation domesticates and makes practical the efforts of those who aspire to improve the atmosphere.

QUESTIONS FOR PROFESSOR ELMER GERTZ

1. Crying "fire" in a crowded theater is clearly outside the protections of the first amendment. Do you feel that violence shown on television, if not held to be outside the first amendment, should at least be carefully weighed against the harm it causes viewers?

2. Do you believe that the government has, in constitutional terms, a "substantial" or "compelling" interest in addressing the effects of televised violence?

Elmer Gertz
Attorney at Law
6249 N. Albany Ave.
Chicago, Ill. 60659
312-274-2247

July 18, 1987

Hon. Paul Simon
U.S. Senate
Washington, D.C.
20510

Dear Paul,

I have your letter of June 26, for which my thanks. I have been delayed in responding for a variety of reasons.

I enjoyed appearing before your committee and seeing you and members of your staff. I hope my testimony helped.

The committee sent me a transcript of my testimony, which required some slight correction. I hqve already returned it.

Before leaving Washington I left with one of your staff my voucher for disbursments. Your letter suggests that something may be lacking. If I am advised as to what it is, I will forward it.

As to your questions:

1) I think that it is constitutionally permissible to weigh the harm television violence causes and to take steps to combat it. The general test is that applied to all situations where there is a clear and present danger of such harm, whether related to "fighting words," disclosure of military secrets, interfence with the recruitment of soldiers, etc. Society has the right to protect itself in all such situations. The protection must be narrowly drawn, that is, no more restrictuve than is necessary in the circumstances.

2) This answers your second question. The government has, in constitutional terms, a "substantial" or "compelling" interest in addressing the effects of televised violence. There is enough scientific evidence of the harm done to require that something be done about it.

Anything else?

Warmest regards.

Sincerely,

Elmer Gertz

Senator Simon. Barry Lynn, of the American Civil Liberties Union—not a stranger to these halls here. We are happy to have you here.

STATEMENT OF BARRY LYNN

Mr. Lynn. Thank you, Senator Simon.

I think it is absolutely clear from the hearings this morning that this legislation is constructed for the purpose of influencing the content of television broadcasting, and as such, it does create serious 1st amendment problems.

There is a strong case that without the proposed exemption to antitrust laws, the television industry would be unable to engage in concerted action to produce a homogeneously reduced level of violence in broadcasting. Except for this Act, no concerted decisions about violence are likely to occur.

The proposed exemption would specifically allow the television industry to regulate violent content, but not other content. It does not provide a blank check for concerted action in the television industry, but only promotes the singular goal of regulating television violence, at least that with some still amorphous "negative" effects.

It represents governmental action which disadvantages some communications, but not others. The messages which might be disadvantaged could include those suggesting that violence and aggression are either an acceptable or an unacceptable way to solve problems, or that violence is a natural fact of life, or even that viewing violence is an appropriate form of entertainment.

In this way, this bill does engender a form of constitutionally forbidden viewpoint discrimination.

My concern also is that if this exemption is enacted this year by this Congress, what congressional "suggestions" through exemption will we see next year?

Will we see suggestions to encourage guidelines to alleviate the effect of "positive" views of abortion; or guidelines to promote a "positive" image of the Contras?

I think there is a very serious precedent to be set by this exemption which does represent governmental influence upon the viewpoints which will be presented by the media. Governmental influence or control over the content of protected speech is not made less offensive to the First Amendment because that control is indirect or informal. In *Bantam Books* v. *Sullivan*, a Rhode Island commission on juvenile delinquency notified distributors of certain materials that those materials had been found by a majority of the commission to be objectionable for sale to young people. But the commission did not take any formal action to prohibit the sale. Nevertheless, the Supreme Court viewed this informal action as unconstitutional, noting, "We are not the first court to look through forms to the substance, and recognize that informal censorship may sufficiently inhibit the circulation of publications to warrant injunctive relief.

That was the same case, Bantam Books, heavily relied upon in the *Playboy Enterprises* v. *Meese* suit, where an injunction was granted after the Ed Meese Pornography Commission sent letters to many of America's retailers and hotel chains saying that they might be identified in a report as purveyors of pornography. That possible characterization, even though informal, by a government agency, certainly raised the specter of something very unpleasant for those corporations, and they did act in such a way as to avoid that label.

Like the actions of the Rhode Island Delinquency Commission or of Ed Meese's Pornography Commission, this bill in its way provides the same kind of intimidating prospect. We have the prospect not only of passing this bill and sending this signal, but then the prospect of further oversight hearings, all to create palpable government pressure to alter the content of materials broadcast to the public.

If the television industry were to establish industrywide guidelines regarding violence on the basis of this bill, those regulations would be legally permissible only because of this exemption, and in fact the industry-promulgated guidelines would be so related to and dependent upon State action that they could readily be construed as government action for constitutional purposes under decisions like *Burton* v. *the Wilmington Park Authority.*

Broadcasters, I must add, are not the only ones affected in their 1st amendment rights by this bill. A collaterally affected group would be the creators and producers of televised materials with violent content. As the market for their material becomes subject to regulation, they would be forced to either alter the content of their productions, even if they felt there was a legitimate artistic purpose for inclusion of substantial violence, or withdraw from the market.

Unpleasant, unpopular speech as well as the speech we favor is safeguarded by the 1st amendment. There is no precedent for excluding depictions of violence from full—full—1st amendment coverage.

Support for this bill obviously is founded on the assumption that exposure to television violence does cause antisocial aggressive behavior. I think the available evidence on this topic is, to say the least, inconclusive on many levels and should not provide the basis for this kind of Congressional action.

The danger, though, goes beyond that—

Senator Simon. If you can conclude, please.

Mr. Lynn. I will summarize. Acceptance of a principle here that speech should be restricted based on its effect on even a few viewers entails a very dangerous backsliding in First Amendment analysis.

If the measure of suppression becomes what one or two adults or children might do in response to particular speech, whether that is violent programming or the report on the news of a violent act like a suicide, then we all become reduced to sitting in darkened rooms in order to prevent violent images from crossing the eyes or minds of even the most suggestible viewer.

Make no mistake about it—I recognize, Senator Simon, your deep commitment to the 1st amendment and to its principles—but this bill, in our view, does amount to censorship by intimidation. The networks, the cable operators, the motion picture industry, I believe, know that the sole purpose of this bill is to change the content of what Americans see. If this change would occur through normal social forces, fine. But when it occurs through even the veiled threats of government, then it is destructive, in our view, to the very principles of a free and open society.

Thank you.

Senator SIMON. Thank you, Mr. Lynn.

[Prepared statement and response to questions follow:]

TESTIMONY OF

BARRY W. LYNN

LEGISLATIVE COUNSEL

AMERICAN CIVIL LIBERTIES UNION

Chairman Metzenbaum and Members of the Subcommittee:

The American Civil Liberties Union (ACLU) appreciates the opportunity to testify today regarding exempting from antitrust laws television industry efforts to alleviate the negative impact of violence on television. The ACLU is a national non-partisan organization of 250,000 members dedicated to defending the principles embodied in the Bill of Rights. For over sixty years the ACLU has sought to preserve and strengthen the First Amendment as a bulwark against all forms of government censorship.

In our view, the proposed exemption is both unwise and unconstitutional. A legislative decision to enact such an exemption would invariably be based on judgments which are ultimately inconsistent with the principle of full freedom of expression.

The exemption proposed in S.844 is for the purpose of allowing concerted action within the television industry "pursuant to the development and dissemination of voluntary guidelines designed to alleviate the negative impact of violence in telecast material." The most readily apparent way to "alleviate" this alleged "negative impact" would be to reduce the quantity of violent content. Last year's hearings on similar legislation, as well as the Report accompanying last year's bill, give clear evidence that this type of legislation is designed to do precisely that. Legislation enacted for the purpose of influencing the content of television broadcasting would create serious First Amendment problems, as discussed below. Even if the television industry were to choose to use the exemption only to develop guidelines regarding the time, place, and manner of presentation of violent content, this would not resolve the First Amendment difficulties raised. Exemptions to antitrust laws in other areas, such as the exemption allowing standardized pricing in airfares, have not posed the problems created by S.844 because those exemptions in other areas have not impinged upon rights to freedom of expression and thus violated the First Amendment.

The Regulation Would Not Occur Without the Exemption

We believe there is a strong case that without the proposed exemption to antitrust laws, the television industry would be unable to engage in concerted action to produce a homogeneously reduced level of violence in broadcasting. There would be no need for the S.844 "exemption" if the antitrust laws didn't apply in the absence of the exemption. Its introduction reflects, at the very least, the ambiguity regarding the applicability of the current antitrust laws. Assistant Attorney General John. R. Bolton maintains, "It is difficult to assess whether the conduct covered by S.844 would raise serious competitive concerns or risk liability under the antitrust laws because of the breadth of the bill and the ambiguity inherent in it."

What is clear is that there is sufficient ambiguity regarding the applicability of the antitrust laws to this sort of concerted action that, but for this act, this "cooperation" is unlikely to occur. Former FCC Chairman Newton Minow, (partner, Sidley & Austin) testified last year that the existence of current antitrust law has virtually precluded industry-wide regulation in this area. In the absence of the S.844 exemption, broadcasters engaging in concerted activity would be subject to the high costs of litigating antitrust suits, and would be potentially liable for awards of treble damages in those suits, including those from disgruntled program producers who would have no market for their wares. As Mr. Minnow has noted,

> The courts will not remove this deterrent to private attempts to solve the problem, and have repeatedly refused to grant a clear exemption in cases analogous to this situation. The federal district court in the District of Columbia recently reached the same conclusion, in the precise context of self-regulation by the television industry.

We assume that Mr. Minow was referring to United States v. National Association of Broadcasters, 536 F.Supp. 149 (D.D.C.

1982), a case brought by the Justice Department against the National Association of Broadcasters (NAB) in 1979. The Justice Department alleged that the NAB's adoption and enforcement of certain advertising standards as part of the NAB's "Television Code" constituted a violation of section 1 of the Sherman Act. Although adherence to the Code was voluntary, the NAB did monitor compliance, and punished violators by prohibiting them from displaying the NAB Seal of Good Practice. The Federal District Court for the District of Columbia held that the "multiple product standard" was a per se violation of the Sherman Act because it was a concerted action among competitors to limit the amount of television time available for commercials. This case, together with the near absence of attempts at concerted action within the television industry (to reduce violence or for other purposes), strongly suggests that the S.844 exemption would invite regulation of broadcast content which would not be possible without the exemption.

The Proposed Legislation is Contrary to the Requirements of the First Amendment.

The proposed exemption creates significant First Amendment problems. S.844 would specially allow the television industry to regulate violent content, but not other content. It does not provide a blank check for concerted action in the television industry, but only promotes the singular goal of regulating television violence, at least that with some amorphous "negative effects." Thus, S.844 represents governmental action which disadvantages some communications but not others. The "messages" which would be disadvantaged could include those suggesting that violence and aggression are either an acceptable or unacceptable way to solve problems, that violence is a natural fact of life, or that viewing violence is an appropriate form of entertainment. In this way, S.844 engenders a form of "viewpoint discrimination."

If an exemption for concerted action by the television industry to promote "patriotic" broadcasting or broadcasting promoting "the interests of the unborn," or of the Republican

Party, were proposed, such an exemption would be even more obviously unconstitutional viewpoint discrimination. S.844 is just such legislation, designed to shape the messages broadcast in order to advantage a favored set of messages. As Dean Stone of the University of Chicago Law School has observed:

> In the absence of antitrust law, broadcasters might be able to adopt such an agreement free of constitutional contraint. But once the antitrust law enters the picture, and government creates an exemption designed to enable private parties to restrict only a particular set of messages, serious first amendment issues emerge.

A dangerous precedent would be set by the enactment of S.844 which represents governmental influence upon the viewpoints which are and are not to be presented in the media.

S.844 is fundamentally distinguishable from the Fairness Doctrine established in Red Lion Broadcasting, 395 U.S. 367 (1969). The Fairness Doctrine, as its name implies, requires the unbiased presentation of differing viewpoints. S.844 would do precisely the opposite. S.844 specifically seeks to further a particular viewpoint on violence and its place in the media.

Governmental influence or control over the content of protected speech is not made less offensive to the First Amendment because that control is indirect or informal. In Bantam Books v. Sullivan, 372 U.S. 58 (1963), the Rhode Island legislature had created a commission to inform the public about literature which was obscene or which tended to have a "corrupting effect" on youth. The commission operated by notifying distributors of certain materials that those materials had been found by a majority of the commission to be objectionable for sale or display to young people. Such "notification" resulted, in most cases, in the distributor's ceasing to carry those materials. The U.S. Supreme Court held that the activities and practices of the Commission abridged First Amendment liberties, even though the Commission did not formally prohibit the dissemination of the designated materials. The Court noted: "We are not the first court to look through forms to the substance and recognize that informal censorship may sufficiently inhibit the circulation of publications to warrant injunctive relief," id. at 66-67.

Bantam Books was relied upon heavily in Playboy Enterprises, Inc. v. Meese, 639 F.Supp. 581 (DDC 1986). The action in Playboy Enterprises arose after the Attorney General's Commission on Pornography sent a letter to certain distributors of printed materials indicating that they had been identified in testimony before the Commission as being involved in the sale or distribution of pornography. The letter also indicated that the names of such distributors might be included in the final Commission report. After receiving that letter, many stores pulled Playboy and similar magazines from their shelves. In an opinion in which the district court granted injunctive relief to the plaintiffs, Judge Penn observed that "The above references to Bantam Books gives the flavor of that decision and is sufficient to demonstrate that serious constitutional questions have been raised in the instant case. Indeed, a reading of the instant cases suggests that we may be venturing along the same path, and this being so, further supports the arguments that the plaintiffs have demonstrated that they may succeed on the merits," Playboy Enterprises, 639 F.Supp. 581 at 585.

Like the actions of the Rhode Island Commission in Bantam Books and those of the Attorney General's Commission in Playboy Enterprises, the passage of S.844, and the intimidating prospect of oversight hearings thereafter would create palpable governmental pressure to alter the content of materials disseminated to the public. As articulated in the holdings in Bantam Books and Playboy, such governmental pressure is unconstitutional.

If the television industry were to establish industry-wide guidelines regarding violence, those regulations would be legally permissable only because of a specially legislated antitrust exemption enacted specifically for the purpose of facilitating such guidelines. Thus, the industry-promulgated guidelines would be inextricably related to and dependent upon state action. When the actions of private parties are thus demonstrably linked to and dependent upon state action, the formally "private" action may be considered state action for constitutional purposes, e.g., Burton v. Wilmington Park Authority 365 U.S. 715 (1961).

The criteria for upholding a constitutional challenge involving ostensibly private action were delineated in Flagg Bros. v. Brooks: it must be shown that the private party acted not only "under color of the challenged statute, but also that its actions are properly attibutable to the State." (436 U.S. 149, 156 (1978). The requirement that the actions are "properly attributable to the state" reflects the Courts assertion that "This Court ... has never held that a State's mere acquiescence in a private action converts that action into that of the State." Following the "state action" test articulated in Flagg Bros., any content regulations instituted by the television industry under S.844 would be state action — since, 1) but for S.844 those regulations would be illegal, and 2) the regulations would not be private action to which the state acquiesced, but rather, the expressed purpose of S.844 would be to effect the very content-shift embodied in those regulations. Thus, S.844 would permit what would be, constitutionally, "state action" regulating speech. And it would do so without any of the constraints, safeguards, or due process properly associated with state regulation of speech.

We recognize that the Supreme Court has held that government (FCC) regulation of television is not sufficient to make actions by individual broadcasters "government action" for Constitutional purposes, cf. CBS v. Democratic National Committee 412 U.S. 94 (1973). That holding, however, referred to a television industry subject to antitrust laws. In contrast, industry-wide regulation of broadcast content, freed from antitrust constraints, might effect limitations on freedom of expression which would require a reconsideration of the previous holdings on this state-action question. As former Senator Charles Mathias observed in the 99th Congress' Report on legislation nearly identical to S.944, "No matter how 'voluntary' the guidelines might appear to be, the premise of their adoption must be to supplant the judgment of individual broadcasters. If legislative action results in any coercive effect on those who produce broadcast television programs, then a substantial First Amendment issue may be presented."

Broadcasters are not the only ones whose expression would be regulated by industry-promulgated "violence guidelines." A collaterally affected group would be the creators and producers of television materials with violent content. As the market for their materials became subject to regulation, they would be forced to either alter the content of their productions even if they felt there was a legitimate artistic prupose for inclusion of substantial violence, or withdraw from the market. Although section 3(a) of S.844 specifies that, "The exemption provided in section 2 shall not apply to any joint understanding, action, or agreement which results in a boycott of any other person in such industry," the affect on producers of television material with violent content would be virtually the same whether their materials were formally boycotted or "only regulated against."

Unpleasant and unpopular speech, as well as speech we favor, is safeguarded by the First Amendment. There is no precedent excluding depictions of violence from full First Amendment protection. Moreover, even speech which is not afforded full constitutional protection -- such as obscenity -- is still guaranteed certain safeguards as the Supreme Court made clear in Bantam Books :

> [U]nder the Fourteenth Amendment, a State is not free to adopt whatever procedures it pleases for dealing with obscenity ... without regard to the possible consequences for constitutionally protected speech" (citations omitted).
>
> Thus, the Fourteenth Amendment requires that regulation by the States of obscenity conform to procedures that will ensure against the curtailment of constitutionally protected expression....

Available Social Science Data Provides No Constitutionally Sound Basis for Regulation

Support for S.844 must be founded upon the assumption that exposure to television violence causes antisocial, aggressive behavior, in children or adults. However, the available research on this topic is inconclusive. Certainly, there has not been sufficiently strong evidence of a causal link between television violence and aggressive behavior to warrant the type of legislative action proposed here.

While some researchers contend that there is evidence of a causal link, many social scientists specializing in this area maintain that the evidence relating aggression to television violence is essentially flawed. Some have even reported findings which point to the conclusion that such a link is nonexistent. Although we do not endorse the validity of specific studies on any side of this debate, the limitations of the extant evidence cast serious doubt upon the appropriateness of Congress directing a message to the television industry to reduce violent programming.

Three main research techniques have been used to produce the social scientfic data in this field: laboratory studies, natural setting studies, and correlational studies. Laboratory research, much discussed during last year's hearings, has serious limitations.

It is not clear to what extent findings of experiments in laboratories are generalizable to the "real world." In laboratory experiments, aggression (fake "shocks" or hitting toy dolls) is tested under conditions where the experimental design may foster aggression because the subject knows that this is "only an experiment," and the subject may feel that the experimenter expects or even wants an aggressive response. Even so, laboratory studies suggest that the negative effects measured are more marked in subjects already predisposed to violence (Berkowitz & Alioto, 1973; Leyens & Parke, 1975; Caprara et al., 1984). The question of of how television violence affects aggressiveness in natural settings is an empirical one that involves many complex interacting variables that cannot be reflected in the results of "controlled" laboratory experiments. Accordingly, the laboratory research, while perhaps demonstrating that viewing television violence may increase aggressiveness under specified, limited conditions, may tell little about the effect that television has in the world outside the laboratory.

Jonathan Freedman, in his review article, "Effects of Television Violence on Aggressiveness," (1984) devoted his primary attention to field studies and correlational studies. Field studies are studies which take place in natural settings. Subjects in these studies are exposed to various kinds (violent and nonviolent) of programs, and then changes in actual aggressive behavior are measured over a period of time ranging from a few hours to several years.

Correlational studies are studies in which data on television viewing behavior (such as quantity of viewing, and proportions of violent to nonviolent programs viewed) is related to data on aggressiveness. The goal of such studies is, first, to determine whether any relationship exists between viewing and aggressiveness. If a relationship is found to exist, then it is necessary to determine whether or not that relationship is causal. This is so because, two measures which are found to be correlated may both be caused by some third factor. For example, a correlation might be found between driving Mercedes and sending ones children to private school. But that does not mean that driving a Mercedes causes one to send one's children to private schools, nor that sending one's children to private schools causes one to drive a Mercedes. Rather, both driving a Mercedes and sending one's children to private school may be a function of some third variable -- such as wealth. Thus, establishing a causal relationship in correlational studies is a process including at least two separate steps: establishing a correlation, and establishing that the correlation is causal.

Freedman concludes that, 1) there is a consistent, small positive correlation between viewing television violence and aggressiveness; and 2) there is little convincing evidence that in natural settings viewing television violence causes people to be more aggressive. Field studies have demonstrated only a very modest positive statistical correlation between viewing of violent television programming and actual aggression. Freedman acknowledges this slight connection while still maintaining that sufficient suport has not been provided to justify the conclusion that viewing television violence has any effect on subsequent aggression.

Dennis Howitt, an English social psychologist, has suggested that the viewing of nonviolent television has as much effect on aggressive behavior as exposure to violent television (Howitt, 1982). In other words, it could be argued that it is television viewing and not violent content as such which may increase aggression. One study conducted by Feshbach and Singer (1971) goes a step further by actually demonstrating that subjects who are permitted to watch only nonviolent programs were generally more aggressive than those who viewed strictly violent television for six weeks.

The findings of correlational studies have not been more conclusive than those of field research. To address the question of whether television viewing has an effect over time, years or decades of exposure, which it might not have from just a few minutes or hours of exposure Dr. Rowell Huesmann, who testified in support of this legislation last year, has proposed a "cumulative effect hypothesis." According to this hypothesis, the correlation between television viewing and aggression would be expected to increase with age of subject. Children who have just begun to watch television should be affected very little, but as they are exposed to more and more violent programs the correlation would be expected to increase. However, the available data do not support this cumulative effect hypothesis. Neither Huesmann's 1982 study on correlations collected on Finnish and Polish schoolchildren nor Milavsky's study completed in the same year indicate a cumulative trend. Likewise, Singer and Singer's 1980 study claimed no tendency for correlations to increase with age.

The available social scientific data is, to say the least, inconclusive. But beyond the inconclusiveness of the social scientific data regarding any causative link betwen media violence and violent behavior, the danger inherent in S.844 runs far deeper than a mere absence of empirical evidence of causation. Acceptance of a principle that speech should be restricted based upon what some viewers might do after exposure to the speech entails a dangerous backsliding in First Amendment Jurisprudence. The most significant development in obscenity law, set forth in the decision in Roth v. Unites States, 354 U.S. 476 (1957), a generation ago, was the rejection of the idea that sexually-oriented materials should be judged by its effect on the most suggestible person who might be exposed to it. If the measure of permissible suppression becomes what one or two people might do in response to particular speech, we will all be reduced to sitting in darkened rooms in order to prevent violent (or other) images from crossing the eyes or mind of someone who might react in an antisocial manner. The fundamental issue is not violent imagery; it is whether we can afford to curtail speech because of its possible overt effect on a few people.

It seems clear that S.844 would represent, legally, a violation of the First Amendment. The considerable governmental influence over broadcast content and viewpoint which S.844 would entail renders the legislation unconstitutional. Moreover, S.844 is clearly offensive to the spirit of the First Amendment. It would be terribly unwise, and harmful to the maintenance of an open society, to allow government to influence the content of speech based on theoretical speculation and ambiguous data. We cannot compromise the freedom of expression essential to our democratic system in order to engage in social experiments. Fortunately, we are not confronted with a situation in which our only options are either to limit speech on the basis of inconclusive evidence, or to take no action at all. Rather, more speech instead of less speech may be the optimal course to follow in the area of media violence. As Bruno Bettelheim, professor of child psychology, has suggested, "There is hardly a program from which a child could not learn a great deal, provided some responsible adult does the necessary teaching. Even violent programs are no exception... It is very important for children to develop the right attitudes toward violence, and closing one's eyes to its existence can hardly be considered the most constructive attitude. Every child needs to learn what is wrong with violence, why it occurs, and how he ought to deal with it in himself and others" (Bettelheim, 1985). Children of all ages are constantly being bombarded with data from mass media. The constructive way of helping them to absorb this information is through critical viewing -- teaching children to analyze and evaluate what is seen on television -- not through the encouragement of television censorship. The introduction of media presentations which foster a realistic and mature attitude toward violence, without infringing on the First Amendment, may do far more good than would the elimination of violence from the public view.

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QUESTIONS FOR BARRY LYNN, ACLU

1. Has the absence of an antitrust exemption truly been the only impediment to the development of TV violence standards in the broadcasting industry? Isn't it possible that other factors are at play?

2. In your prepared testimony, you argue that the industry standards would constitute "state action" in part because the purpose of S. 844 is to bring about an eventual decline in TV violence. However, would you argue, for example, that a private oil well, bought for tax purposes, was "state action" because the purpose of the tax break created by Congress was to encourage oil exploration?

3. You have said that S. 844 would set a bad precedent. But is S. 844 really more intrusive than the FCC regulations (banning George Carlin's "seven dirty words") upheld in *FCC v. Pacifica*?

ANSWERS TO INQUIRIES MADE REGARDING TV VIOLENCE BILL

BARRY LYNN

1. In my view, the absence of an antitrust exemption has been a key ingredient in the decision not to develop T.V. violence standards. However, one other important factor may well be that even the television industry has come to recognize the stifling effect which "codes" or "standards" may have on artistic expression of program producers.

2. The Constitution requires that government be more sensitive in regard to decisions affecting "speech" than those affecting the oil wells in your example. Congress is forbidden by the First Amenmdment from making laws which result in a curtailment of images or ideas, no such constitutional structure exists in regard to Congress' power to encourage or discourage development of natural resources. In my view, when Congress seeks to send a signal especially to the television industry about what is desirable to be shown, it is far more readily perceived as "state action" than when it makes general tax policies.

3. The George Carlin monologue case was a constitutional travesty seeking to create one more quasi-exception to the First Amendment: "indecency." Whether S. 844 is more or less "intrusive" is not a resolvable question. It is bad enough that it seeks indirectly to carve out one more subject area, "violence", from full and unfettered constitutional protection.

Senator SIMON. Professor Strauss.

STATEMENT OF DAVID A. STRAUSS

Prof. STRAUSS. Thank you, Mr. Chairman.

I am David Strauss. I teach Constitutional Law at the University of Chicago Law School.

It is my view that this bill would be constitutional if it were enacted. I reach that conclusion with some hesitation, because of the concerns raised by Mr. Lynn. But on balance I think this bill would be constitutional. I will summarize the reasons for my conclusion that the bill is constitutional; then I will mention why I think the bill is nonetheless somewhat problematic.

Senator SIMON. If you could, please pull the microphone a little closer to you.

Prof. STRAUSS. Certainly. The first thing to note about this bill is that it has nothing to do with political speech in any sense. It does not in any way suppress any distinctive political view or any category of political speech. Other speech besides political speech is, of course, protected by the 1st amendment, but for a long time it has been thought that political speech is at the core of the 1st amendment. The fact that this bill does not touch political speech, is a strong point in its favor.

Second, as Mr. Gertz emphasized, this bill is not in any sense coercive; it does not force the networks to do anything whatever. It leaves them free to go their own way. Not only are they free from government coercion, but the bill and the legislative history of the comparable bill introduced in the last Congress suggest that private coercion is not to be tolerated and would not come within the antitrust exemption.

In fact, it can be argued that this bill even promotes 1st amendment interests. There are two senses in which I think that is true. First, as a number of witnesses have pointed out this morning, in the current environment, television networks are operating under a form of coercion; it is a form of market coercion, a form of competitive pressure, that may prevent them from showing the sort of programming they would like to show. That is a very real form of coercion. If Congress acts to eliminate that form of competitive pressure and free the networks to show what they would like to show, an argument can be made that such congressional action actually advances 1st amendment interests by freeing the networks to speak in a way that competition does not allow them to speak.

Second, it should not be overlooked that what this bill literally does is to authorize speech. It authorizes speech among network executives about a matter of extreme public importance—television violence. That is what it literally does.

Now, speech among competitors in a context that could produce an antitrust violation is not traditionally protected by the 1st amendment. But nonetheless it should not be overlooked that what will be going on here is speech.

Third, there is a tradition of regulating the electronic media, radio and television, to a much greater extent than the print media. This bill, of course, concentrates on the electronic media.

And finally, there is an established principle that the government has much greater power to regulate broadcasts—particularly electronic media broadcasts—to which children are exposed. To the extent that the bill is designed to allow the networks to develop guidelines for dealing with programming directed at children, I think the arguments for its constitutionality are much enhanced.

I should say it is not at all clear from the face of the bill that it is directed specifically at children, but to the extent that it is, that is a powerful argument in its defense.

The reason I have some hesitation about saying that this bill is constitutional is that, as Mr. Lynn very forcefully said, it is discriminatory. Violence on TV, as distasteful as many of us, including me, find it, is protected by the 1st amendment. When speech is protected by the 1st amendment, that means not only that the government cannot prohibit it; it also means that there are limits on the extent to which the government can discriminate against it by giving people benefits if they do not engage in it. That is what is going on here, and that is a real constitutional problem.

For the government to have free rein to give benefits to those who engage in speech it approves and withhold them from those who engage in speech it disapproves is a troubling prospect. But not all forms of discrimination are unconstitutional. There are many forms of discrimination—I describe them in my prepared statement—by the government that are permitted. For the reasons I give in my prepared statement, I think this kind of enactment is sufficiently unthreatening to core First Amendment values to survive constitutional scrutiny.

Senator SIMON. I thank you very much.

[Prepared statement and response to questions follow:]

STATEMENT OF

DAVID A. STRAUSS

ASSISTANT PROFESSOR OF LAW, THE UNIVERSITY OF CHICAGO

Mr. Chairman, my name is David Strauss, and I am an Assistant Professor of Law at the University of Chicago, where I teach constitutional law. It is a pleasure to testify before you on S. 844. S. 844 would exempt from the antitrust laws any joint "discussion, consideration, review, action, or agreement" among certain television industry executives "pursuant to the development and dissemination of voluntary guidelines designed to alleviate the negative impact of violence in telecast material."

The Committee has asked for my views on whether S. 844 might be unconstitutional under the First Amendment. Because of the shortage of time, my views at this point are somewhat tentative. But my overall judgment is that although S. 844 raises a substantial question under the First Amendment, it is, on balance, constitutional.

I can summarize my views in this way. The First Amendment problem posed by S. 844 is that it discriminates in favor of speech with a certain content. Television networks that are willing to alter the content of their programming in a way that alleviates the effects of violence are granted an exemption from laws that apply to all others. It is quite problematic for the government to discriminate, in this way, in favor of speech that has a certain content. On the other hand, S. 844 is not coercive, and it does not seriously imperil core First Amendment values. For example, S. 844 is not directed at political speech or at the expression of any particular political point of view. Therefore, S. 844 seems to me, all things considered, to be constitutional.

I

I will first discuss the arguments that can be advanced in support of S. 844.

A

S. 844 is not coercive. It does not prohibit any television network from broadcasting anything it wishes at any time. Nor does S. 844 require any network to broadcast anything at any time. S. 844 does not even provide a subsidy or other direct financial inducement to networks that engage in one kind of broadcasting instead of another. S. 844 leaves each network free to go its own way and to ignore any effort by others to develop guidelines concerning violent material.

Moreover, Section 3(a) of S. 844 provides that the antitrust exemption does not extend to any agreement or joint action that "results in a boycott of any other person in" the television industry. This provision suggests that S. 844 does not even authorize any private party to engage in coercive action against a television network that chooses not to participate in an agreement. If that interpretation of Section 3(a) is correct, it further mitigates the constitutional problems that S. 844 presents.

I note, in this connection, that the Report of this Committee on S. 2323, a bill essentially identical to S. 844 that Senator Simon introduced in the 99th Congress, stated that "the parties covered by the exemption . . . would remain free to accept or reject any guidelines which might result from the joint action permitted by [the exemption]. The only sanction would be that of public disapproval." S. Rep. 99-535, 99th Cong., 2d. Sess. 3 (1986). If the Committee's intentions remain the same, the Committee should so indicate in the legislative history; such an indication might help S. 844 survive a constitutional challenge.

B

S. 844 is concerned only with television, not with newspapers, books, movies, or any other form of expression. This also helps support its constitutionality. Under current constitutional law, regulation of the content of speech on television and radio is more acceptable than regulation of the content of other forms of speech. For example, only those who have been licensed by the Federal Communications Commission may broadcast radio or television transmissions, and the Supreme Court has held that this licensing system does not violate the First Amendment. National Broadcasting Company v. United States, 319 U.S. 190, 226-227 (1943). The Supreme Court has also upheld the fairness doctrine, which generally requires broadcasters to present both sides of controversial issues. See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969). While some have recently questioned the constitutionality of the fairness doctrine, these Supreme Court decisions have not been overruled, and they establish that the government has unusually great power to regulate the content of the material broadcast over the electronic media.

It is also possible that S. 844 might find support in the principle, established by Supreme Court decisions, that the government has especially great power to control speech that might harm children. See, e.g., Ginsberg v. New York, 390 U.S. 629 (1968). To be sure, the Court has emphasized that the government may not "reduce the adult population . . . to [seeing] only what is fit for children." Butler v. Michigan, 352 U.S. 380, 383 (1957). But the Supreme Court has, for example, permitted the FCC to restrict the broadcasting of offensive material, principally on the ground that the FCC restrictions applied to the times that unsupervised children were most likely to be listening. FCC v. Pacifica Foundation, 438 U.S. 726, 749-750 (1978); id. at 757-762 (opinion of Powell and Blackmun, JJ.).

I should say at once that this principle does not necessarily support the constitutionality of S. 844, which is apparently designed to "alleviate the negative effects of televised violence on children and adults" (S. Rep. 99-535 at 3 (emphasis added)). Whether S. 844 can find support in this line of cases depends on the guidelines ultimately adopted by the television networks. In particular, to the extent that networks choose to adopt guidelines specifically directed toward the effects of violence on children, S. 844 will be more likely to survive a constitutional challenge.

C

Finally, in at least two important ways, S. 844 might be said to promote, not undermine, First Amendment values.

First, S. 844 may enhance the First Amendment rights of television networks. As matters stand now, some networks may wish to broadcast less violent programs. But they may find themselves unable to do so because of competitive pressures; they may fear losing viewers to competitors who are less concerned about the effects of violence. This competitive pressure operates, in a real sense, to coerce them in the exercise of their First Amendment rights: they must broadcast violent material they would rather not broadcast, and refrain from broadcasting the less violent material they would prefer, because they are concerned that viewers might switch channels.

If the networks were able to discuss television violence with each other, they might find that they would all rather broadcast less violent programs. By agreeing on guidelines, they would enable themselves to broadcast the kind of programs they really prefer. In this way, S. 844 might enhance, rather than diminish, the ability of broadcasters to speak freely.

I do not want to overstate this argument. The rights of viewers, as well as the rights of the networks, should count. Perhaps the viewers have a right to see violent programming if they prefer it, no matter what the networks would rather broadcast. In addition, it may be over-optimistic to suppose that the networks are genuinely interested in broadcasting less violent material. Nonetheless, S. 844 may, in this way, genuinely advance the interests of free speech.

The second way in which S. 844 promotes First Amendment interests is that it literally authorizes speech: it permits television network executives to speak to each other free of the risk of violating the antitrust laws. The speech that S. 844 permits is speech on a matter of great public concern -- violence in television programming. Moreover, it is speech among those individuals, the network executives, who have an especially strong interest in the subject. This is the kind of speech that ordinarily the First Amendment most strongly protects.

Again, I do not want to overstate the force of this argument. Usually the First Amendment does not protect the conspiratorial speech of business competitors who are engaged in an antitrust violation. But the fact that S. 844 literally authorizes speech makes the First Amendment objections to it seem at least slightly paradoxical.

II

On the other side of the ledger, as I mentioned, is the fact that S. 844 discriminates in favor of speech of with a certain content. This presents a genuine and substantial First Amendment problem.

In order to see why this is so, suppose that Congress's concern were not with violence in television programming but with programs that were thought to be so critical of the government that they were undermining its foreign policy. And suppose Congress enacted a statute granting an antitrust exemption to television network executives for the purpose of enabling them to develop -- here I track the language of S. 844 -- "voluntary guidelines designed to alleviate the negative impact of television broadcasts critical of American foreign policy." Such a statute would, I think, be plainly unconstitutional.

It is not immediately clear why S. 844 is different from this hypothetical statute. But I believe it is possible to identify three reasons for concluding that S. 844 is constitutional despite its resemblance to the hypothetical statute I just described.

First, S. 844 is not directed at the expression of any political view or political position. For some time, speech on political issues has been regarded as the central concern of the First Amendment. One can imagine circumstances in which a concern for violence like that expressed in S. 844 would in fact be a subterfuge for an attempt to encourage television networks to suppress speech advocating certain political positions. But there is no reason whatever to suspect that S. 844 is a hidden attempt to suppress certain political views. In fact, it seems reasonable to say that S. 844 is not even directed at any material that would be regarded as serious art.

Second, not every law that encourages or supports speech of a certain content is necessarily unconstitutional. For example, the Supreme Court has held that Congress does not violate the First Amendment when it grants tax exempt status to veterans' organizations that engage in lobbying while denying tax exempt status to similar organizations that are not veterans' groups. Regan v. Taxation with Representation, 461 U.S. 540 (1983). On the federal, state, and local levels, many government programs -- public theaters, grants-in-aid, and the like -- support speech of a certain content while denying support to speech with a different content; but few would consider such government programs to be unconstitutional. The support that S. 844 gives to less violent television programming seems less direct than the support provided by government programs of that kind. In view of the noncoercive nature of S. 844 and of its absence of any political bias, a good argument can be made that S. 844 belongs in the same category as these clearly constitutional forms of government aid to speech.

Finally, the First Amendment is most strongly implicated when the government discriminates against speech because it is concerned that the speech is too persuasive. S. 844 appears not to be concerned with the persuasive effect of any television programming. Rather, it appears to be concerned with the more subliminal and subconscious harmful effects that televised violence might produce. See S. Rep. 99-535 at 2. It is less threatening to First Amendment values when the government acts against speech for this reason.

Again, this argument has definite limitations. Much powerful political and artistic speech has subliminal effects, and it would certainly be unconstitutional for the government to attempt to uproot those effects. But the fact that S. 844 is not directed at the persuasiveness of any speech is nonetheless an argument in its favor.

I would be happy to respond to any questions the subcommittee might have.

QUESTIONS FOR PROFESSOR DAVID STRAUSS, U. OF CHICAGO LAW SCH.

1. In *Red Lion Broadcasting v. FCC* (1969), the Supreme Court upheld the fairness doctrine in part because the broadcasting market could not itself ensure balanced coverage of important issues. Do you believe that a similar need exists here, because the broadcasting market will generally tend to generate more, not less, violence on television?

2. The Supreme Court has consistently afforded less constitutional protection to those types of speech that are of lesser "value." On the spectrum of speech "values," where would you place televised violence?

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July 20, 1987

The Honorable Paul Simon
United States Senate
Committee on the Judiciary
Subcommittee on the Constitution
Washington, D.C. 20510

Attention: Mr. Chris Dunn

Dear Senator Simon:

This responds to your letter of June 26, 1987, in which you asked me certain questions pertaining to the testimony I gave on S. 844, before the Subcommittee on Antitrust, Monopolies, and Business Rights, on June 25, 1987.

Your first question was as follows:

> In Red Lion Broadcasting v. FCC (1969), the Supreme Court upheld the fairness doctrine in part because the broadcasting market could not itself ensure balanced coverage of important issues. Do you believe that a similar need exists here, because the broadcasting market will generally tend to generate more, not less, violence on television?

As I commented in my testimony, Red Lion and other Supreme Court decisions establish that the government may regulate the electronic broadcast media in ways that it may not regulate other forms of expression. But Red Lion focused on one specific aspect of the broadcasting market: the technological scarcity that, the Supreme Court believed, gives broadcasters extraordinarily great power to determine which points of view are expressed.

There is no apparent connection between technological scarcity and the allegedly violent content of television programming. Moreover, I do not think Red Lion can be read to establish a general principle that the government may regulate the content of speech -- even speech on the electronic media -- whenever it concludes that the market has produced undesirable speech. Suppose, for example, that the government concluded that the market tends to produce an "excessive" demand for television documentaries on politically sensitive subjects. The First

Amendment would surely prohibit the government from acting on that conclusion by re~~stricting~~ the number of such documentaries that could be shown.

If Congress believes that the market produces too much violence on television, that belief might support the constitutionality of S. 844 in the more limited way I described in the prepared statement I submitted to the Subcommittee. That is, S. 844 might be defended as a measure that promotes First Amendment values by removing the competitive market pressures that effectively coerce television networks into broadcasting more violence than they wish to broadcast.

Your second question was as follows:

> The Supreme Court has consistently afforded less constitutional protection to those types of speech that are of lesser "value." On the spectrum of speech "values," where would you place televised violence?

A strong argument can be made that televised violence does not have the same high value as political speech, which has been regarded as the kind of speech entitled to the most protection under the First Amendment. For that reason, Congress has greater latitude in regulating televised violence than it would have in regulating political speech.

On the other hand, I do not think all televised violence can be placed in the same category as, for example, false statements of fact, which according to the Supreme Court have "no constitutional value." Gertz v. Robert Welch, Inc., 418 U.S. 323, 340 (1974). See also Miller v. California, 413 U.S. 15, 23 (1973) ("[O]bscene material is unprotected by the First Amendment."). That is why a measure that went beyond S. 844 and prohibited televised violence altogether would present very serious constitutional questions.

It is difficult to specify where televised violence falls between these two extremes. Much would depend on the specific nature of the material. Violent scenes in a serious film about, for example, the Vietnam War, certainly do not seem to belong in the same category as gratuitous violence. In general, however, I would caution against efforts to assign a precise "value" to different kinds of speech, because there is a great danger that judges and legislators will allow their agreement or disagreement with the message conveyed by the speech to influence their assessment of its "value." Cf. Rankin v. McPherson (June 24, 1987), slip op. 3-5 (Scalia, J., dissenting). Nonetheless, as I said in my testimony, I do believe that the case for the constitutionality of S. 844 is greatly aided by the fact that S.

844 does not regulate political expression, which is thought of as the kind of speech with the highest value.

I hope these remarks are responsive to your questions. Please do not hesitate to contact me if you believe that I can be of any further assistance.

Sincerely,

David A Strauss

David A. Strauss
Assistant Professor of Law

Senator SIMON. Professor Nichol.

STATEMENT OF GENE NICHOL

Prof. NICHOL. Senator Simon, my name is Gene Nichol. I am a law professor at the College of William and Mary, where I teach Constitutional Law.

Since I am last in the lineup, I will be very brief, both to avoid repetition and because we have all filed written statements concerning the constitutionality of S. 844.

Let me say first that despite the fact that I think this bill is constitutional, I agree with much of what Barry Lynn said about the bill. I think even though it is voluntary, it certainly is government action which is subject to review under the 1st amendment, and it is government action which is content-based in its nature, which means for 1st amendment purposes, it is among the most serious sort of enterprises in terms of constitutional review.

I simply want to add—and this is set forth more fully in my statement—that there is a line of cases, present Supreme Court doctrine, which I will not describe here but I think are familiar at least to you and certainly to the members of the panel, *Young* v. *American Mini-Theatres,* decided in 1976, *FCC* v. *Pacifica,* decided in 1978, and *City of Renton* v. *Playtime Theatres,* which was decided just last year, which indicate that under present Supreme Court doctrine, I think the case is virtually overwhelming that this statute would be constitutional.

Those cases indicate that certain regulations, even though content-based regulations of expression, especially those which involve the electronic media and relate to what the Court has characterized in those three cases as low-level speech, are constitutional if they are, quote, "narrowly tailored to further a substantial government interest".

I think that S. 844, if challenged, would fall under this *Young* line of cases for a number of reasons. First of all, as has been indicated, like *Pacifica,* it applies to electronic media, and you know the whole argument concerning scarcity, therefore allowing greater regulation of the electronic media.

Secondly, although this is a content-based regulation, the regulation is unrelated—to quote from the Court—"unrelated to the social, political, or philosophical message intended to be communicated".

Now, that means that it is a less offensive form of content-based regulation, because it is not designed to censor any particular point of view.

Third, *Young* and *Pacifica* especially indicate that there is what the Court has characterized as a low-level category of constitutionally protected speech. In *Young,* sexually-explicit speech was characterized as different and of a lesser value. *Pacifica* said the same thing in effect for offensive speech. I think especially when you are looking at TV violence as a generic concept, turned over and regulated by the industry itself under voluntary guidelines, it is fairly easy to conclude that TV violence as well would be viewed as substantially removed from the core of 1st amendment concerns. Given that, I think, the Supreme Court or Federal reviewing court would be apt to say that S. 844 is constitutional if it is narrowly tailored to further some substantial government interest.

Certainly, the interest set forth here is a substantial one of prevention of physical harm. I do not address the link between S. 844 and physical harm, but if it is demonstrated, that would have to be considered an important one.

The means employed by S. 844, I would think, are about as unintrusive as the Congress could possibly accomplish. It is voluntary; it does not demand that broadcasters get together and even discuss this, much less reach an agreement. If any guidelines are forthcoming, they are voluntary. Also, it is written to reduce the impact of violence, which to me suggests the possibility that perhaps any guidelines forthcoming might be designed to channel violent behavior away from children, channelling rather than suppressing, making it closer to that line of cases. And fourth, this is, as you know, a temporary measure.

Those are all ways which it seems to me the legislation has been designed to serve an important government interest, but to do that in a way which is as inoffensive to the 1st amendment as is possible. Given that, I think that it would probably withstand constitutional scrutiny.

Thank you.

[Prepared statement and response to questions follow:]

STATEMENT OF GENE R. NICHOL

I have been asked to testify this morning about the constitutionality of Senate Bill 844. The Bill exempts from the reach of the antitrust laws "discussions and agreements designed . . . to alleviate the negative impact of violence in telecast material." I think that the exemption, as well as any subsequent guidelines agreed to by the broadcast industry, would be constitutionally reviewable as "state action." I also think that the statute is an example of "content-based" regulation, thus triggering substantial First Amendment scrutiny and concern. Nonetheless, a trilogy of cases decided by the Supreme Court over the course of the past dozen years makes it clear that S.844 is constitutionally permissible. These cases, dealing with what the Court characterizes as "low value" speech, have validated certain sorts of content based regulations which are carefully tailored to serve important government interests. S.844 falls easily under that umbrella. I will explain each of my conclusions in turn.

I. State Action

Senate Bill 844, by its terms, mandates nothing. It stays the hand of those who enforce the antitrust laws, but it does not *require* that broadcasters reach agreements, or even hold discussions, on the problem of television violence. It has been suggested, then, that any guidelines adopted pursuant to the exemption would not constitute "state action" and, as a result, could not violate the First Amendment. In my opinion, this "no state action" defense of S.844 is erroneous.

It is true that if we were operating on a clean slate -- with no antitrust laws -- a purely voluntary agreement between the networks to reduce violence over the airwaves would likely fall short of the state action requirement. But that is not our circumstance. S.844 creates an express exception to the reach of an otherwise generally applicable law. The exception, in turn, is based on the content of the speech sought to be regulated. S.844, no matter how reasonable and how non-intrusive, is designed to disadvantage violent expression. Correspondingly, it benefits other sorts of expression by leaving them free from the potential coverage of such restraining agreements. As a result, the exemption itself could be subject to challenge in an appropriate case by a disgruntled broadcaster, programmer or even television viewer. The exception, no doubt, is government action subject to constitutional review.

Consider a few examples. What if the exemption were not tied to discussions concerning television violence, but to discussions aimed at reducing the "negative coverage" of the Reagan administration or the derogatory portrayal of television evangelists? Or, for that matter, what if the exemption included a laundry list of "preferred" areas of network discussion: reducing, for example, controversial coverage of abortion, school prayer, death penalty and race discrimination issues? Surely this congressional carrot-and-stick approach would satisfy any realistic definition of the state action requirement. The S.844 exemption, as well as any industry guidelines achieved as a result of the exception, constitute "actions properly attributable to the state" as demanded in the Supreme Court's state action cases. [*Flagg Bros. v. Brooks*, 436 U.S. 149 (1978)]. The proposed statute, therefore, must withstand the rigors of First Amendment review.

II. S.844 and the First Amendment

Senate Bill 844, through essentially non-coercive, is a regulation of speech. Moreover, it does not apply to all speech generally, but only to violent television programming. In some sense, the exemption may be viewpoint neutral. Clearly, however, it is constructed to encourage broadcasters to shape their messages along the lines favored by the government. It cannot, therefore be validly characterized as a content neutral time-place-and-manner regulation. It is, rather, a content-based classification. And the Supreme Court has "long held that regulations enacted for the purpose of restraining speech on the basis of its content presumptively violate the First Amendment." [*Police Dept. of Chicago v. Mosley* 408 U.S. 92 (1972)].

In a series of three related decisions, however, *Young v. American Mini Theatres* [427 U.S. 50 (1976)], *FCC v. Pacifica Foundation*, 438 U.S. 726 (1978)] and *City of Renton v. Playtime Theatres*, [478 U.S.-- (1986)], the

Supreme Court has ruled that the First Amendment's near total aversion to content-based regulations should not be "read literally." Pacifica Foundation upheld an FCC sanction applied against a radio station for broadcasting George Carlin's "Seven Dirty Words" on a weekday afternoon. Young and City of Renton, on the other hand, ruled that local zoning ordinances which substantially curtailed permissible locations for "adult" theatres were constitutionally acceptable. All three opinions announce principles which, when taken as a package, work to assure S.844's constitutionality.

First, to the extent the antitrust exemption can be characterized as a "regulation," it is obviously a regulation of the electronic media. The Supreme Court acknowledged in Pacifica that, relative to other forms of communication, electronic "broadcasting has received the most limited First Amendment protection." The distinction between print and electronic media has long been thought justified on a scarcity rationale. [See, Red Lion Broadcasting v. FCC, 395 U.S. 367 (1969).] Despite the increasing obsolescence of the limited access theory, the Supreme Court recently stated that regulations concerning "electronic media have been upheld" when "narrowly tailored to further a substantial government interest." [FCC v. League of Women Voters, 104 S. Ct. 3106 (1984)]. Accordingly, the exemption is easier to justify under the First Amendment since it relates only to the electronic media.

Second, although S.844 embodies a content-based regulation, like the governmental actions reviewed in Young, Pacifica, and City of Renton, the classification is unrelated to the "social, political or philosophical message. . . intended to [be] communicated." [See, Young, 427 U.S. at 70.] The provision is aimed not at the suppression of unpopular ideas, but at the control of messages thought to be harmful because of the manner in which they are delivered. In City of Renton, Justice Rehnquist characterized such regulations as content-neutral since they are aimed at the "secondary effects" of the speech on the "surrounding community." I doubt that the "secondary effects" notion can endure as a measure of content neutrality, since so many efforts to curb speech are based on the perceived secondary ramifications of expression. Renton, Young, and Pacifica, however, each indicate that content-based regulations which are not designed to censor any particular viewpoint do not necessarily trigger the most exacting First Amendment scrutiny.

Third, Renton, Young, and Pacifica make clear that all constitutionally protected speech is not necessarily treated equally. Young characterized non-obscene but sexually explicit speech as "different" and of "lesser" First Amendment importance than "untrammelled political debate." Pacifica held that offensive speech makes up "no essential part of any exposition of ideas" and lies "at the periphery of First Amendment concern." Attempts to regulate such "low-value" communications were held to be permissible in all three cases because they were tied carefully to legitimate governmental interests. It is quite likely that television violence would similarly be regarded as removed from the core of First Amendment concern. Accordingly, the Supreme Court may be more inclined to permit its non-coercive regulation.

These three factors -- electronic media, viewpoint neutrality and low-value speech -- virtually assure that, if challenged, S.844 would be reviewed by a court only to determine that the government restriction is "narrowly tailored to further a substantial government interest." [See, FCC v. League of Women Voters and City of Renton v. Playtime Theatres.] Assuming that a substantial link between television violence and harm to children and/or adults can be demonstrated, S.844 would have little difficulty passing constitutional muster. The prevention of physical injury is certainly an important governmental interest. The exception also seeks to accomplish its goal in as unintrusive a fashion as possible. S.844, in deference to broadcaster discussion, is not mandatory. Under its terms, broadcasters are neither required to discuss, nor agree to, violence guidelines. Even if such guidelines are forthcoming, the bill stipulates that they shall be "voluntary." Essentially, the exemption seeks only to remove a government imposed impediment to the reduction of violent programming.

The statute also refers to guidelines "designed to alleviate the negative impact of violence in telecast material." As Professor Tribe stated in his letter to Senator Simon, the "focus on 'impact' suggests, for example, voluntary agreements about when to air especially gory episodes so as to minimize exposure to impressionable children." To the extent that S.844 encourages agreements to "channel," rather than suppress, violent expression, it falls more easily under the umbrella of Renton, Pacifica, and Young.

It is my conclusion, therefore, that the antitrust exemption set forth in Senate Bill 844 is narrowly tailored to serve substantial governmental interests.

III. First Amendment Policy

My arguments thus far, if successful, support only the claim that S.844 is constitutional under present Supreme Court doctrine. Determining whether the bill is sound First Amendment policy is far more complex, and perhaps far more troubling. The statute creates an exemption from a regulatory scheme based on the content of speech. However non-coercive, it favors some forms of expression over others. As a result, its premise is somewhat at odds with a vibrant system of free expression. It allows, to use the worn metaphor, the camel's nose into the tent.

In truth, of course, this is hardly the first appearance of the camel's nose. 18 U.S.C. §1464, for example, provides that "no person shall utter any . . . indecent or profane language by means of radio communication." The fairness doctrine traditionally has been triggered by the controversial content of expression. Renton, Pacifica, and Young each countenance content-based regulation of otherwise constitutionally protected speech. In my view, S.844 is a far less intrusive regulation of expression than was ruled permissible in those decisions; it is also tied to a more substantial government interest, the reduction of violent behavior. Accordingly, the constitutional problems presented by S.844 are substantial, but not overwhelming.

QUESTIONS FOR PROFESSOR GENE NICHOL,

MARSHALL-WYTHE (WILLIAM & MARY) LAW SCHOOL

1. One of the issues surrounding this bill is whether the broadcast standards, if developed, would represent indirect "government action." In CBS v. Democratic National Committee, a 1973 case, a plurality of the Court held that broadcasters could refuse to sell advertising space for TV spots on controversial issues. The plurality ruled that the broadcasters' decisions to refuse the ads were not "governmental" actions because the government was not a "partner" in the broadcasters' actions. Do you believe that test is applicable here? Would the broadcasters, in constitutional terms, truly be "partners" of the government if they voluntarily formulated standards?

2. To be constitutional, a regulation of speech cannot be overbroad. Is S. 844 narrowly drawn to meet its purpose?

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August 27, 1987

Senator Paul Simon
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Senator Simon:

Thank you for your kind letter concerning my testimony on S.844. I am happy to respond, as well, to the two additional questions you have posed.

(1.) Would any broadcast standards subsequently developed as a result of S.844 represent "government action"?

My answer, in short, is yes. If we were operating on a clean state -- with no antitrust laws -- a voluntary agreement between the networks to reduce violence might well fall short of the state action requirement. That, at least, is the issue posed by *CBS v. Democratic National Committee*. But S.844 substantially involves the government in the decision to limit TV violence. It would create an express exception to a law of general applicability. The exception is designed to burden violent expression and, thereby, benefit other types of expression. If *that* government decision could be causally linked to subsequently adopted regulations, it would be reviewable under the First Amendment.

(2.) Is S.844 narrowly drawn to meet its purpose?

Again, my answer is yes. S.844 seeks to accomplish its goal in as unintrusive a manner as possible. Broadcasters are neither required to discuss, nor agree to, violence guidelines. Even if such guidelines are forthcoming, the bill stipulates that they shall be voluntary. Further, the statute refers to guidelines "designed to alleviate the negative *impact* of violence in telecast material." The focus on impact suggests that guidelines seek to channel, rather than suppress, violent behavior.

Sincerely,

Gene Nichol

Gene R. Nichol

Senator SIMON. I thank all four of you very much.

Unfortunately, because of some time constraints here, I will not be able to address questions to you right now. I would like to submit some written questions to all the members of the panel; we will then enter those in the record. It may be that my colleagues who are here—and let me note also for the record that Senator Specter was here for part of the hearing also, but did not have a chance to stay to ask questions, but has shown a real interest in this—and other members of the subcommittee may want to submit questions.

But we are grateful to all of you for taking the time to be here.

The hearing stands adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

APPENDIX

RESEARCH SUMMARY AND BIBLIOGRAPHY:

Excerpts from Studies and Articles on Televised Violence

Prepared by the Office of U.S. Senator Paul Simon

Mann, James. "What Is TV Doing To America?" US News and World Report, Aug. 2, 1982.

> A report released in May, 1982 by the National Institute of Mental Health says that "violence on television does lead to aggressive behavior by children and teenagers who watch the programs." In one five-year study of 732 children, "several kinds of aggression -- conflicts with parents, fighting, and delinquency -- were all positively correlated with the total amount of television viewing."

Dunn, Paul H. "The Great Turn-on: Your Children and TV." Salt Lake City: Bookcraft, Inc., 1979.

> In a 1976 report to the people of Canada, the Royal Commission on violence in the communication industry concluded that media violence can lead to an increase in a person's level of aggression.

U.S. Surgeon General's Scientific Advisory Committee on Television, Report to the Surgeon General. Washington, D.C.: U.S. Government Printing Office, 1972.

> Stein and Friedrich compared the effect of "prosocial" or socially desirable programs, aggressive programs, and neutral films on preschool viewers behavior. They studied 97 preschool children, ranging in age from three years, ten months to five years, six months. The results of the study showed that children who viewed aggressive programming were more likely to be aggressive in interpersonal situations than those who viewed neutral or prosocial television.

"Aftermath of the Report: TV Violence" The Surgeon General's Report.

> A series of three field experiments conducted in the United States and Belgium studied the effect of full-length violent films on the aggressive behaviors of male adolescent juvenile delinquents residing in minimum security institutions (Park, Berkowitz, Leyens, West and Sebastian, 1977). In all three studies the youngsters were observed in naturalistic situations before and after the film exposure. Film effects on aggressive behavior were apparent in all three studies.

U.S. Dept. of Health and Human Services, Public Health Service. Alcohol, Drug Abuse and Mental Health Services. National Institute of Mental Health. Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties. V. 1: Summary Report. Rockville, Md., 1982, DHHS Publication.

> The Surgeon General's advisory committee concluded that the viewing of televised violence could lead to subsequent aggressive behavior, especially in children and persons who regularly view such programs for long periods of time.

Cooper, Edith F. Media Entertainment Sex and Violence: Impact on Society, Especially Children. CRS--Science Policy Research Division.

> In addition, George Gerbner and his associates at the Annenberg School of Communications at the University of Pennsylvania, who began content analysis of television programs in 1967, contend that heavy television viewers have been found to be more fearful of the real world because of negative influences from viewing violent programs.

U.S. Dept of Justice. Attorney General's Task Force on Family Violence. Final Report. Washington. Sept. 1984.

> The U.S. Attorney General's Task Force on Family Violence study that was issued in September, 1984 concluded that the viewing of television violence contributes to the acting out of violence in the home. The evidence is becoming overwhelming, the study stated, that, just as witnessing violence in the home may contribute to normal adults and children learning and acting out violent behavior, violence on TV and the movies may contribute to the same result.

Coughlin, Ellen K. "Is Violence on TV Harmful to Our Health? Some Scholars, A Vocal Minority, Say No." The Chronicle of Higher Education--Scholarship. March 13, 1985.

> In 1982 the National Institute of Mental Health issued a report, a follow-up to a 1972 report by the Surgeon General called "Television and Behavior: Ten Years of Scientific Progress and Implications of the Eighties," a massive review of the existing scientific research on the influence of TV and on all aspects of behavior.
>
> The report, according to Eli A. Rubenstein, professor of mass communications at the University of North Carolina, "describes TV as a very large influence on child development." On specific issues of violence, its conclusion was unequivocal. "The consensus among most of the research community is that violence on television does lead to aggressive behavior by children and teenagers who watch the programs."
>
> Just last month the American Psychological Association added its imprimatur. In a resolution passed by its council of representatives, the association noted that "viewing televised violence may lead to increases in aggressive attitudes, values, and behavior, particularly in children."

USA Today, March 14, 1985. "Television Violence Remains the Villian."

> The USA Today's psychologists, after years of debate, agreed that there is a link between televised violence and real-life violence. The American Psychological Association, citing the accumulated results of 1000 studies over 25 years, recently passed a resolution saying: "Viewing televised violence may lead to an increase in aggressive attitudes, values, and behavior, particularly in children."
>
> Doctors also agreed, after a 16-month study of treating children that there is a link. A task force of the American Academy of Pediatrics warned in January 1985, that repeated exposure to TV violence can make children violent and numb to the horror of real-life violence.

Rubinstein, Eli A., "Television and the Young Viewer." American Scientist, Nov-Dec. 1978.

George Gerbner argues that television content reinforces beliefs about various cultural themes - the social realities of life are modified in the mind of the viewer by the images portrayed on the television screen. To the extent that the television world differs from the real world some portion of that difference influences the perception of the viewer about the world in which he or she lives. Thus, Gerbner has found that heavy viewers see the world in a much more sinister light than individuals who do not watch much television. Gerbner argues that excessive portrayals of violence on television inculcate feelings of fear among heavy viewers, which may be as important an effect as the findings of increased aggressive behavior.

Cline, Victor B. "The Child Before the TV: The Impact of Television Viewing on Children's Behavior and Values." The Police Chief. V. 43, June 1976.

Research by Stanford psychologist Albert Bandura has shown that even brief exposure on TV to novel aggressive behavior on a one-time basis can be repeated in free play by as high as 88% of the young children seeing it. Dr. Bandura also demonstrated that even a single viewing of a novel aggressive act could be recalled and produced by children six months later without any intervening exposure.

Studies by McLeod and associates of boys and girls of junior and senior high school age found that the more the youngster watched violence on television, the more aggressive he or she was likely to be. Other studies revealed the amount of television violence watched by children, especially boys at age 9, influenced the degree to which they were aggressive ten years later at age 19.

Freedman, Jonathan L. "Effect of Television Violence on Aggressiveness." Psychological Bulletin, V. 96, No. 2, Sept. 1984.

Although some psychologists question the extent to which television and movies actually influence people's behavior, the majority of studies point to the conclusion that viewing violence does increase interpersonal aggression, particularly in young children.

National Commission on the Causes and Prevention of Violence. "Commission Statement on Violence in Television Entertainment Programs." Sept. 23, 1969.

The National Commission on the Causes and Prevention of Violence, headed by Dr. Milton S. Eisenhower, focused on the relationship between violence and television. It reported, September 23, 1969, that advertisers were spending $2 billion a year in the belief that television does influence human behavior and concluded that "violence on television encourages violent forms of behavior and fosters moral and social values about violence in daily life which are unacceptable in a civilized society."

Watts, Meredith W., Sumi, David. "Desensitization of Children to Violence? Another Look at Television's Effects." Experimental Study of Politics. Vol. 5, Aug, 1976.

> Television is said to contribute to the process by "desensitizing" viewers to violence by its daily presentation of aggressive and brutal acts. A series of studies has indicated that aggressiveness and media viewing are related, particularly for those viewers who are already predisposed toward aggressive social behavior. (Bandura, 1973; Eron, Heusman, Lefkowitz and Walder, 1972; Liebart, Neale, and Davidson, 1973; U.S. Surgeon General, 1972).
>
> Using young children as subjects, Osborn and Endsley (1971) found that physiological arousal during exposure may also be related to increased learning and retention of aggressive acts.

Eron, Leonard D. and Huesman, L. Rowell, "Television Violence and Aggressive Behavior." Advances in Clinical Child Psychology. V. Plenum Publishing Company, 1984.

> Repeated observation of television violence can cause aggressive behavior in children and has a lasting effect on their character and personality.
>
> We believe and have proven conclusively that heavy exposure to televised violence is one of the causes of aggressive behavior, crime and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country.

U.S. Surgeon General's Scientific Advisory Committee on TV and Social Behavior. "Television and Growing Up." United States Public Health Service. 1972.

> We know that children imitate and learn from everything they see--parents, fellow children, schools, the media; it would be extraordinary, indeed, if they did not imitate and learn from what they see on television.
>
> The experimental studies bearing on the effects of aggressive television entertainment content on children support certain conclusions. First, violence depicted on television can immediately or shortly thereafter induce mimicking or copying by children. Second, under certain circumstances television violence can instigate an increase in aggressive act.
>
> Suggestible persons may be strongly influenced or even exploited by the ideas and advice offered through television and other media.
>
> A child may acquire a new item of behavior through attentive observation. Rehearsal or practice of this new skill increases his competence. If the initial attempts are rewarded or encouraged, the child is likely to continue to perform the newly acquired behavior. If they are punished, he is less likely to persist.... Observation, imitation, then practice is a common sequence through which new behaviors enter the child's repertoire.
>
> (There) "is little doubt that by displaying forms of aggression or modes of criminal and violent behavior, the media are teaching and people are learning."

Feshback, Seymour and Singer, Robert D. "Television and Aggression." Jossey-Bass, Inc. Publishers, San Francisco, 1971.

> In the general incitement-to-aggression view, the child learns how to be aggressive from viewing television, is aroused to act out the techniques he has learned through TV and other media, and experiences little fear of punishment for giving overt expression to aggressive inclinations. The depiction of violence, therefore, is seen as a multifaceted evil.

Greenberg, Bradley S, and Gordon, Thomas F. "Children's Perceptions of Television Violence: A Replication." Michigan State University. (Reports and Papers, Vol. V: Television Effects: Further Explorations). U.S. Department of Health, Education, and Welfare.

> The basic rationale of the study Greenberg and Gordon (1971) posited that greater exposure to "real-life" aggression--a more common phenomenon among the disadvantaged--manifests itself in greater tolerance for aggressive behavior, whether real or mediated.

Liebert, Robert M. "Television-and Social Learning: Some Relationships Between Viewing Violence and Behaving Aggressively." (Television and Social Behavior. U.S. Department of Health, Education and Welfare, 1972).

> Regardless of their particular theoretical affiliations, investigators interested in socialization have virtually all acknowledged that a child's values, knowledge and behavior may be developed and molded at least in part, by observational learning.

Leifer, Aimee Dorr, and Roberts, Donald F., "Children's Responses to Television Violence." (Television and Social Behavior. U.S. Department of Health, Education and Welfare). Stanford University, 1972.

> Television is an important contributor to the socialization of our children. It is certainly not the only socializer, nor is it necessarily the most potent; but given the nature of the medium, the large amount of time children devote to viewing, and the fact that children learn a great deal through simple observation of behavior it is difficult not to believe that television has a significant impact on children's social behavior.

Television Violence Task Force Report. Newark: Dept. of Preventive Medicine and Community Health of the New Jersey Medical School, 1985.

> The Task Force found impressive evidence that viewing violence on television is harmful to many people, especially the young.

Ibid.

> The 1982 U.S. Surgeon General's report on television and social behavior further supports the evidence that watching violence on television can lead to an increase in aggressive behavior.

Ibid.

> Several studies of the relationship between exposure to televised violence and later responses to scenes of real life aggression indicate that viewing television desensitizes peoples to real violence and makes aggressive actions more acceptable.

Eckholm, Erik. "Two Studies Link Teen-Age Suicides to TV Programs", New York Times, Thursday, Sept. 11, 1986.

> The new reports, building on earlier research, provide the strongest evidence to date that an `imitative effect' influences the rate of teen-age suicides, scientists said.

National Institute of Mental Health. "Television and Behavior: 10 Years of Scientific Progress and Implications for the Eighties.

> At this time, it should be difficult to find any researcher who does not believe that a significant positive relation exists between viewing television violence and subsequent aggressive behavior under most conditions.
>
> While the strength of the relation changes as a function of situational determinants, population characteristics and measurement techniques, the evidence seems overwhelming that television violence viewing and aggression are positively correlated in children.
>
> The more television a child watches, the more accepting is the child's attitude toward aggressive behavior. (Dominick and Greenberg, 1972).
>
> Young children's willingness to accept aggressive behavior in other children can be increased by even brief exposures to violent film scenes. Such accepting attitudes, in turn, make it more likely that the child may behave aggressively and perhaps make it more likely that the child will model aggressive acts..

Strickland, Stephen. "A First Hard Look at the Surgeon General's Report on TV and Violence." Palo Alto, CA. 1972.

> The Surgeon General's report confirms the folk wisdom that there's a causal relation between violence on TV and the behavior of children in an anti-social way. The confirmation is seen as being about as clear as a scientific group given the time allowed them, could have given them. Not only, does TV incite violence in some who are predisposed to violence, but it is clear that violence on TV is a factor in determining the "predisposition" under these circumstances.

Husenan, Russell. "Adolescent Aggression and Television" Department of Psychology, University of Illinois at Chicago.

> There can no longer be any doubt that viewing television violence is one important cause of violent behavior among adolescents.... The effect is real. It happens in life, not just in the laboratory.

Ibid.

> Significant overall reduction of violence on the television screen would, we believe, lower the trend of violence in American society.

"Violence on TV: An Unchecked Environmental Hazard." The New England Journal of Medicine. April 8, 1976.

> Violence on TV can cause normal, healthy children to become more aggressive...after viewing such shows.
>
> The hazard is the exaltation of violence on TV, its victims are all our children, and the disease is a distortion of values, attitudes, and morality.

Palmer, Dr. Richard E. "Pull Plug on TV Violence, the AMA asks 10 Big Firms." The Nation. Feb. 7. 1977.

> The violence is a mental health problem and an environmental issue. If the program a child is exposed to consists largely of violent content, then his perceptions of the real world may be significantly distorted and his psychological development may be adversely affected.

Liebert, Dr. Robert M. "TV Violence is Harmful." Readers Digest, April 1973.

> We have impressive evidence that watching television violence causes a significant increase in aggressive behavior.

CONGRESSIONAL HEARINGS AND REPORTS ON TELEVISED VIOLENCE

(1986) 99th Congress, 2nd Session, Exempting Certain Activities from Provisions of the Antitrust Laws: a report from the Senate Committee on the Judiciary.

(1986) 99th Congress, 2nd Session, TV Violence Antitrust Exemption: Hearing before the Senate Committee on the Judiciary.

(1984) 98th Congress, 2nd Session, Media Violence: Hearings before the Subcommittee on Juvenile Justice of the Senate Committee on the Judiciary.

(1984) 98th Congress, 1st Session, Crime and Violence in the Media: Hearings before the Subcommittee on Crime of the House Committee on the Judiciary.

(1981) 97th Congress, 1st Session, Social/Behavioral Effects of Violence on Television: Hearing before the Subcommittee on Telecommunications, Consumer Protection, and Finance of the House Committee on Energy and Commerce.

(1977) 95th Congress, 1st Session, Violence on Television: Hearing before the Subcommittee on Communications of the House Committee on Interstate and Foreign Commerce.

(1975) 93rd Congress, 2nd Session, Hearings before a Subcommittee of the House Committee on Appropriations.

(1974) 93rd Congress, 2nd Session, Violence on Television: Hearings before the Subcommittee on Communications of the Senate Committee on Commerce.

(1972) 92nd Congress, 2nd Session, Surgeon General's Report by the Scientific Advisory Committee on Television and Social Behavior: Hearings Before the Subcommittee on Communications of the Senate Committee on Commerce.

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(1969) 91st Congress, 1st Session, Federal Communications Commission Policy Matters and Television Matters and Television Programming: Hearings Before the Subcommittee on Communications of the Senate Comm. on Commerce.

(1964) 88th Congress, 2nd Session, Effects on Young People of Violence and Crime Portrayed on Television: Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary.

(1961-62) 87th Congress, 1st and 2nd Session, Effects on Young People of Violence and Crime Portrayed on Television: Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee of the Judiciary.

(1956) 84th Congress, 2nd Session, Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, Television and Juvenile Delinquency.

(1955) 84th Congress, 1st Session, Juvenile Delinquency (Television Programs): Hearings Before the SubCommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary.

(1955 Committee Print) Senate Committee on the Judiciary, 84th Congress, 1st Session, Report on Comic Books and Juvenile Delinquency.

(1955) 33rd Congress, 2nd Session, Juvenile Delinquency (Television Programs): Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary.

(1952) 82nd Congress, 2nd Session, House Committee on Interstate and Foreign Commerce, Hearings and Report: Investigation of Radio and Television Programs.

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